SELECTMEN’S MEETING
TENTATIVE AGENDA
Juliani Room, Town Hall
4:30 pm Tuesday March 26, 2019

1. 4:30 Call to Order – Open Session
2. 4:32 Public Comment
3. 4:35 Executive Director’s Update
   • Approval of Minutes
4. 4:40 ATM Preparation
   • Article 27 – Lease Agreement 254 Washington
   • Article 35.2 – Human Resources Policies
   • Article 38 – Indigenous People’s Day Resolution
5. 5:15 Special Town Meeting Discussion
   • Wellesley Office Park Update
   • Delanson Circle/148 Weston Road Update
6. 5:45 New Business and Correspondence
7. 5:50 Executive Session under G.L. c. 30A, §21(A), exemption #7 to comply with Open Meeting Law, G.L. c. 30A, §§ 18-25 to approve minutes of the February 11, 2019 and March 4, 2019 Executive Sessions

Please see the Board of Selectmen’s Public Comment Policy

Next Meeting Date
Monday, April 1, 6:00 pm – Middle School Library
Tuesday, April 2, 6:00 pm – Middle School Library
TUESDAY, MARCH 26, 2019

Our meeting will begin on Monday at 4:30 pm in the JULIANI ROOM

1. Call to Order – Open Session
3. Executive Director’s Update - Minutes

The Board has several sets of regular meeting minutes to approve.

MOVE to approve the regular meeting minutes of February 25, 2019 (pm), February 28, 2019, and March 4, 2019.
Approved:

Board of Selectmen Meeting: February 25, 2019
Present: Gibbs, Freiman, Sullivan Woods, Ulfelder, Morgan
Also Present: Robinson

Warrants approved: 2019-032 $1,768,499.48
2019-033 $6,763,873.90

Minutes approved: February 4, 2019
February 11, 2019

Meeting Documents:
1. Agenda
2. BOS Calendar
3. Motions
4. Draft Proclamation – Herda Senhouse
5. NRC Recommendation Memo re: Tree Cutting at 73-77 Central Street
6. Wellesley Tree Bylaws
7. Letter from NRC acknowledging payment of fines re: 73-77 Central Street
8. FY20 Budget Sources and Uses for Town Wide Financial Plan
9. Draft TWFP
10. Draft TWFP – marked up version
11. Draft BOS minutes: 2/4/19
12. Draft BOS minutes: 2/11/19
13. COA donations for acceptance
14. Recommendation for Appointment of Crossing Guard
15. Police Letter of Commendation to Detective Christopher Connelly
16. Correspondence from Secretary of State
17. Correspondence from Department of Energy Resources
18. Memo from Jack Walsh, Sealer of Weights and Measures
19. Monthly Parking Meter Collections

1. Call to Order

Mr. Morgan, Chair, called the meeting to order at 6:30 pm

Mr. Morgan announced the meeting was being telecast live on Comcast channel 8 and Verizon channel 40 and streamed live by Wellesley Media and is recorded for subsequent viewing on the cable channels or at wellesleymedia.org.

2. Announcements

Mr. Morgan stated that Executive Director Blythe Robinson and the Board of Selectmen were announcing that Ms. Robinson would be leaving her position with the Town effective March 2, 2019. In her tenure with the Town, Ms. Robinson restructured the Selectmen’s office, drafted updated policies and procedures for the Board’s consideration, and worked assiduously to implement the Board’s decisions. Her effective financial management was reflected in the healthy financial position that the Town continues to enjoy. While the Board and the Town have benefited from Ms. Robinson’s leadership, she had decided to seek other opportunities. He extended thanks to Ms. Robinson and noted that the Board was appreciative of all
of her efforts on the Town’s behalf and the Board wished her well in her future endeavors and recognized her dedication and commitment to the Town.

Ms. Freiman announced that this meeting was the final Selectmen meeting for Ms. Gibbs. She stated on behalf of the Board and the Town, the Board extended its thanks to Ms. Gibbs for her long standing dedication to the Town’s residents, town affairs, and regional interests. Ms. Gibbs had served on the Board since 2010. She noted Ms. Gibbs had served as a volunteer and an elected committee member throughout Wellesley for over twenty years. Ms. Gibbs plans to remain active in Town affairs. The Board thanked Ms. Gibbs for her service.

Ms. Gibbs expressed her thanks and appreciation to the Board.

3. **Public Comment**

None.

4. **Execute Proclamation – Boston Post Cane Holder Herlda Senhouse**

Mr. Morgan reviewed the tradition of the Boston Post Cane, a symbolic gesture that allows a New England town to recognize its oldest citizen. He noted that Ms. Herlda Senhouse remains the Town’s oldest living resident, noting that she will be celebrating her 108th birthday on February 28. Mr. Morgan read the proclamation recognizing Ms. Senhouse. He noted the Board will present the signed proclamation to Ms. Senhouse on her birthday.

5. **Discuss Recommendation from NRC to Assess Damages Regarding Three Trees on Central Street**

Ms. Robinson provided a brief background regarding the Central Street trees that were cut without authorization. The NRC had met and assessed fines to the owner and the owner had paid those fines. Ms. Robinson noted that the Board could assess further damages, or could choose to accept the recommendation of the NRC.

The Board discussed the incident and the NRC recommendations for the assessment of damages. The Board debated whether additional damages were warranted. Ms. Freiman reviewed the state law applicable to the tree cutting. The Board continued to discuss the incident and possible damage assessment.

Mr. Brooks, attorney for the property owner, and Mr. Leuders, owner of the landscaping company, joined the Board. Mr. Brooks and Mr. Leuders addressed the Board regarding the tree incident and provided information from the landscaping company perspective. Mr. Leuders apologized on behalf of his company and stated he had not been as involved in the project as he might have been. He stated he believed the request from the property manager had been misinterpreted. He noted his ties to the community and work he had done in Wellesley over the years including working with former town staff. He stated the intent was to prune the trees to avoid damage to the trees by vehicles and provide clearance to vehicles and pedestrians. Mr. Brooks provided additional details regarding the planting and maintenance of the trees. He stated the fine assessed by the NRC was promptly paid by his client, noting again the apologies of the property owner and the landscaping company. He discussed his view of the applicable state and town regulations related to the incident.

The Board deliberated the appropriate damages assessment for the incident. Ms. Freiman proposed the Board come to an agreement with Mr. Leuders that if the trees were irreparably damaged then Mr. Leuders would replace the trees for the Town. Mr. Leuders was amenable to the proposal given a timeframe for the acceptable life of the trees, approximately two years.
Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to not take positive action on the recommendation from the NRC to assess damages, but instead to direct the Park and Tree Division to have a conversation with Mr. Leuders about addressing the issue of the trees health, fertilization, and pruning and grant permission to do that work and that Mr. Leuders will replace the trees if any of them should die within the next two years.

6. **Discuss Use of North 40 as Swing Space**

Mr. Ulfelder stated that during the feasibility study for the Hunnewell School work had been done for finding possible locations for swing space. He stated the public had been recently asking questions about revisiting the North 40 as a possible location for swing space. He stated that any location of the modular classrooms for swing space on the North 40 would require tree removal and additional work to bring utilities to the location. He noted that without knowing the overall development plan for the site the Town could not be assured the work would not be done with the long term use of the land. Ms. Freiman added she believed it would be an inappropriate location given the forestry work that would need to be done. Mr. Morgan stated that the Town has an agreement with Wellesley College that a committee would be formed prior to determining the use of the land. The Board agreed they were not supportive of the use of the North 40 as swing space.

7. **Discuss and vote ATM Article 21 – Softball Field**

Mr. Morgan introduced Article 21 regarding the funding for the Softball Field renovation.

Mr. D’Ortenzio and Mr. Sheehan of the Playing Fields Task Force and Mr. Hickey, Town Engineer joined the Board.

The Board discussed the overall plans for the project and how it had progressed from its inception. The Board expressed its support for the project.

Mr. Sheehan thanked the Board and particularly Ms. Gibbs for her guidance and support over the years.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to support a motion under Article 21 regarding a request by the Playing Fields Task Force to construct a new softball field.

8. **Discuss and vote ATM Article 18 – Library Renovation**

Mr. Morgan introduced Article 18 regarding the Library Renovation project.

Ms. Jurgenson, Library Director, Ms. Lanza and Ms. Howley of the Library Trustees, joined the Board.

The Board discussed the project and the work that had already been completed.

Ms. Crowley expressed thanks to the Board for their support of the project.
Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to support a motion under Article 18 regarding a request by the Library Trustees to fund the design of interior renovations to the Main Branch Library.

9. **Discuss FY20 Budget Status**

Ms. Strother, Town Finance Director, joined the Board.

Ms. Strother reviewed updated information within the budget. She pointed to the budget summary and noted that town budgets included a 3% and the School request was 3.71%. Ms. Robinson noted that the budget had been able to be balanced due to reductions in health insurance costs based on actual enrollments from the current fiscal year and projected enrollments for the upcoming year. Ms. Strother reviewed the variances within the budget and noted departments that appear over guideline based on additional personnel and anticipated projects.

Mr. Morgan stated that Advisory would be taking supportive or non-supportive votes on all submissions above guideline over the course of their next two meetings. He stated he supported moving forward with approval of the budget as proposed as the budget was able to be balanced. Ms. Strother provided additional details regarding how the budget was able to be balanced. The Board discussed the budget process and several departments that remain out of guideline and the basis for each. Ms. Freiman stated she believed the School budget should be reviewed further to see which expenses could be pushed out to future years.

Ms. Sullivan Woods discussed the social services report and the recommendations of additional funding for mental health resources. She stated she believed there would be room in the budget to add funding for mental health resources of approximately $160,000. The Board discussed the need for and appropriate level of funding for additional support for mental health and social services. The Board continued to discuss the overall budget.

Ms. Ward, Secretary to Advisory Committee, joined the Board. She discussed the Advisory schedule for preparing the Advisory report and voting on annual town meeting articles.

The Board reviewed discussed the best way to proceed regarding the budget with consideration to Advisory’s timeframe. Staff agreed to revise the proposed budget to include funding for mental health services. The Board agreed to meet on February 28th to review and vote on the proposed budget.

10. **Discuss Town-Wide Financial Plan**

Mr. Morgan reviewed the draft town wide financial plan and noted there would need to be additional edits. The Board reviewed the current draft and using the model of assumptions of 3% growth in operating budgets. The Board made additional edits to the draft, staff agreed to update the draft to include edits that would be reviewed at the February 28th meeting.

11. **Executive Director’s Report**

Ms. Robinson briefly reviewed the items for the Board’s approval.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to approve the minutes of the February 4 and 11, 2019 meetings.
Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to accept a donation of $500 from Maryanne Miller for the COA Bus.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to appoint Lucia R. Grignaffini as a Crossing Guard for the Town of Wellesley.

12. **New Business and Correspondence**

The meeting was adjourned at 9:16 pm.
Approved:

Board of Selectmen Meeting: February 28, 2019
Present: Gibbs, Freiman, Sullivan Woods, Ulfelder, Morgan
Also Present: Robinson, Strother

Warrants approved: None
Minutes approved: None

Meeting Documents:
1. Agenda
2. Draft Town Wide Financial Plan
3. FY20 Budget Sources and Uses for Town Wide Financial Plan

1. Call to Order
Mr. Morgan, Chair, called the meeting to order at 10:02 am

Mr. Morgan announced the meeting was being telecast live on Comcast channel 8 and Verizon channel 40 and streamed live by Wellesley Media and is recorded for subsequent viewing on the cable channels or at wellesleymedia.org.

2. Public Comment
None.

3. Discuss and vote FY20 Budget
Ms. Strother reviewed the revisions made to the budget to include additional funding the mental health and social services budget. She noted that when the budget was initially balanced the health insurance rates had not been set and assumptions were used. She stated that as the rates had been set there would be a small surplus available to reduce the amount used to balance the budget. She noted that staff would continue to work to make revisions to the mental health and social services budget and prepare to present it to Advisory on March 2nd. She stated the school budget remained 3.71%, which was over guideline and noted that the Board would reach out to schools and ask that the budget be revised to achieve a budget no greater than 3.5%. She stated she would not be comfortable reducing the SPED stabilization fund to reduce the budget for the schools, but proposed to adjust the free cash needed to balance the budget dependent if the Board would move forward on the increase on the mental health budget. The Board agreed that the SPED stabilization fund should not be reduced in the school budget.

Ms. Sullivan Woods provided details of the mental health and social services report and task force process. She noted that the work done to determine how much funding would be needed was completed after budgets had been submitted. She noted that the budget was not increased from the previous fiscal year and reviewed how the budget was determined. She further detailed the additional funding request and how the funding would be utilized. She noted the concerns of the schools, youth commission, and police regarding mental health issues and how the current services were not meeting the needs of the town. The Board discussed the funding request for the mental health budget and how the determination was made. Ms. Freiman stated she did not believe the job description for the social services position was finalized and noted she believed additional conversations needed to take place before the hiring process.
The Board discussed the budget process and the upcoming priorities for annual town meeting and special town meeting. Mr. Morgan stated the expected date for the special town meeting was May 13, 2019. The Board continued to discuss the mental health and social services additional funding request and the best time to bring it before the Town.

Ms. Strother recommended the mental health and social services budget be presented as its own department within the health department. She reviewed how the budget could be set up and what line items would need to be included. The Board agreed to have staff set up a separate budget for the funding of the mental health and social services positions.

Mr. Morgan stated that the Town is required to submit a balanced budget and reviewed the budget proposed by the schools that remained 3.71% which was above guideline. He noted the Board had asked schools to reconsider their submission but did not believe it would be revised by the school department before the Advisory meeting on March 2nd. The Board discussed different scenarios for presenting the budget to Advisory given the current proposal from the schools. The Board discussed the schools proposed budget and discussions the Board had with the school committee regarding their budget. Ms. Freiman noted that the past several years the schools budget was under 3.5% and included additional unknown reserves for SPED that is not included in the current proposal. She noted additional considerations including declining enrollment and stated she was not supportive of the current school budget given that there had been no reductions to it after multiple discussions. She stated that the request includes 13 new staff members that would impact benefit expenditures. The Board continued to discuss the budget proposal from schools and how to move forward with the budget process. The Board agreed that it would not support the current proposed school budget.

Upon a motion by Ms. Sullivan Woods and seconded by Ms. Freiman, the Board voted (5-0) to support the addition of $160,000 to the mental health budget to be divided between personnel services and expenses for the FY20 Budget and that $20,000 of the $160,000 be allocated to benefits.

Upon a motion by Ms. Freiman and seconded by Mr. Ulfelder, the Board voted (5-0) to approve a budget as presented by Ms. Strother with the adjustments of $160,000 for mental health services previously voted and with a reduction in the schools spending to a 3.5% increase over last year.

4. Discuss and finalize draft Town Wide Financial Plan

Mr. Morgan stated the latest draft of the town wide financial plan included additional comments and edits from the Board. Ms. Strother reviewed some of the more significant changes to the most recent version. Mr. Morgan added the schedule on projected debt exclusions had been reviewed to include a provision for swing space costs and potential funding for a design phase for a Cameron Street lot project. The Board discussed the current draft. Mr. Morgan noted there would be additional edits to be included. The Board discussed the approval of the draft and submission to Advisory process.

Upon a motion by Ms. Gibbs and seconded by Ms. Freiman, the Board voted (5-0) to approve the Town-wide Financial Plan and delegate the Chair and Vice Chair to make any final amendments and execute the document on behalf of the Board.

5. Adjourn

The meeting was adjourned at 12:24 pm.
Approved:

Board of Selectmen Meeting: March 4, 2019
Present: Gibbs, Freiman, Ulfelder, Morgan, Sullivan Woods (arrived at 3:40)
Additional attendees: Town Counsel Tom Harrington and Donna Brewer and Labor Counsel Jim Pender (by phone)

Meeting Documents:
1. Agenda
2. Draft Executive Director’s Contract – Meghan Jop

1. Call to Order and Announcements
Mr. Morgan called the meeting to order at 3:33 PM.

2. Citizen Speak
None.

3. Executive Session under G.L. c. 30A, §21(A), exemption #2 – to discuss strategy with respect to contract negotiations with nonunion personnel (Meghan Jop, Candidate for Executive Director)
At 3:35 PM, Ms. Gibbs moved to go into executive session seconded by Ms. Freiman. Gibbs-yes, Freiman-yes, Ulfelder-yes, Morgan-yes. The Board returned to open session at 4:20 PM.

4. Appoint Meghan Jop as Executive Director and Vote to Execute Contract
Upon a motion by Ms. Gibbs, seconded by Ms. Freiman, the Board voted (5-0) to appoint Meghan Jop as the Executive Director of the Town, and the Board authorized Chairman Jack Morgan to execute the Executive Director’s Contract on behalf of the Board.

The meeting was adjourned at 4:25 PM.
4. **ATM Preparation**

**Article 27 – Lease Agreement 254 Washington**

The Board of Selectmen currently holds a license agreement with Haynes Management for the right to use 240 square feet of Town Land located in the Eaton Court Parking Lot for ingress and egress to access a rear parking lot. It was determined that the license agreement should be converted into a lease to further formalize the access agreement. The Selectmen’s Office hired an appraiser, and just recently has received the appraisal back. Article 27 seeks Town Meeting authorization to pursue the lease pending the outcome of an RFP process. Historically, the Selectmen have conducted the RFP process, selected a respondent, executed an agreement, and then would bring the agreement to Town Meeting for final approval.

On this article, the Board will need to determine whether to move forward, conduct the RFP, and lease agreement after Town Meeting authorizes the Board to enter into a lease or whether to hold this article to a Town Meeting where an executed agreement is brought forward for ratification.

**Article 35.2 – Human Resources Policies**

This article seeks to transfer responsibilities of personnel policies from Town Meeting to the Human Resources Board. Most significantly, the proposed bylaw removes the exemption from application of HR policies for employees under Collective Bargaining Agreements. Concern has been raised by the Fire and Police Department as to whether adoption of Article 35, Motion 2 could result in the imposition of conflicting HR-voted policies onto their pre-existing unique public safety policies e.g., existing hiring practices established by the departments following their departure from Civil Service that were negotiated and agreed to by the unions. The current motion exempts employees of the School Committee and Municipal Light Board because of statutory provisions.

**Article 38 – Indigenous People’s Day Resolution**

**NO MOTIONS**
5. **STM Discussion – Wellesley Office Park**

Discussions on the establishment of a 40R Smart Growth District at the Wellesley Office Park continue with the property owner, John Hancock, and their team including their counsel Peter Tamm and project manager George Cole from Legatt McCall. Peter Tamm will be present at the meeting to discuss the documents. As you are aware, this is a pending item for a Special Town Meeting. Attached are the following items for your review:

1. **Proposed 40R Overlay Zoning.**
   
   The Town and the property owner have agreed to the zoning. It has been submitted to DHCD for review, and we are currently awaiting approval or approval with modifications within the next week from the state.

2. **Draft Development Agreement**
   
   Town Counsel, Tom Ulfelder, and staff have been working to negotiate a development agreement in addition to the passage of the 40R zoning for the project. A draft of the development agreement is included for discussion and review.
SECTION XIVJ. SMART GROWTH OVERLAY DISTRICTS

A. Purpose

The purposes of this Section are:

1. To allow for the establishment of Smart Growth Overlay Districts to promote the redevelopment of certain areas and properties in a form that meets the objectives of “smart growth” within the purposes of Mass. Gen. Laws Ch. 40R;

2. To provide for a more diversified housing stock within the Town of Wellesley, including affordable housing and housing types that meet the needs of the Town’s population, all as currently identified in the Wellesley Housing Production Plan;

3. To promote advanced site planning, sustainable design, improved transportation management, and environmental enhancements in the development of projects; and

4. To generate positive tax revenue, and to benefit from the financial incentives provided by Mass. Gen. Laws Ch. 40R, while providing the opportunity for new business growth and additional local jobs.

B. Definitions

As used in this Section and in sections associated with any district created under this Section, the following terms shall have the meanings set forth below:

Terms and definitions contained in Section IA, Definitions, of the Zoning Bylaw that are applicable to the administration of this Section and any sections associated with any district created under this Section shall have the meanings established as of the date of adoption of said Section, unless amendments are subsequently approved by the Massachusetts Department of Housing and Community Development.

Administering Agency - The Wellesley Housing Development Corporation, which shall have the power to monitor and to enforce compliance with the provisions of this Bylaw related to Assisted/Affordable Units, including but not limited to computation of rental and sales prices; income eligibility of households applying for Assisted/Affordable Units; administration of an approved housing marketing and resident selection plan; and recording and enforcement of an Affordable Housing Restriction for each Assisted/Affordable Unit in the District.

Affordable Unit - See definition of “Assisted Unit” in Section IA, Definitions.

Affordable Housing Restriction - A deed restriction of an Affordable Homeownership Unit meeting statutory requirements in Mass. Gen. Laws Ch. 184 Section 31 and the requirements of subsection K., Housing and Housing Affordability, of this Section.
Affordable Rental Unit - A dwelling unit required to be rented to an Eligible Household in accordance with the requirements of subsection K., Housing and Housing Affordability, of this Section.

Affordable Homeownership Unit - A dwelling unit required to be sold to an Eligible Household in accordance with the requirements of subsection K., Housing and Housing Affordability, of this Section.

Applicant - A landowner or other petitioner who files a site plan for a Development Project subject to the provisions of this Section.

Application - A petition for Site Plan Approval filed with the Approving Authority by an Applicant and inclusive of all required documentation as specified in administrative rules adopted pursuant to subsection E., Site Plan Review, of this Section.

Approving Authority - The Zoning Board of Appeals of the Town of Wellesley acting as the authority designated to review projects and issue approvals under this Section.

As-of-Right Development - A Development Project allowable under this Section without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of this Section shall be considered an As-of-Right Development.

Conservation Use - Any woodland, grassland, wetland, agricultural, or horticultural use of land, and/or any use of land for the construction and use of ponds or stormwater management facilities.

Department - The Massachusetts Department of Housing and Community Development (“DHCD”), or any successor agency.

Design Guidelines - The document entitled Design Guidelines Handbook, approved by DHCD on [______, 20__], pursuant to Mass. Gen. Laws Ch. 40R, Section 10. The Design Guidelines are applicable to all Development Projects within the District that are subject to Site Plan Review by the Approving Authority.

Developable Land - All land within the District that can be feasibly developed into Development Projects. Developable Land shall not include: the rights-of-way of existing public streets and ways; or areas that are: (1) protected wetland resources (including buffer zones) under federal, state, or local laws; (2) land unsuitable for development because of topographic features or for environmental reasons; or (3) rare species habitat designated under federal or state law. The foregoing definition shall be for purposes of calculating density under G. DIMENSIONAL AND OTHER REQUIREMENTS, Paragraph 2, and shall not limit development activities in such excluded areas if otherwise allowed by applicable law.
Development Lot - One or more tracts of land defined by metes, bounds or lot lines in a deed or conveyance on a duly recorded plan which are designated as a Development Lot on a site plan for a development proposed within the District and for which Site Plan Approval is required under the provisions of this Section. Where a Development Lot consists of more than a single lot, such lots (i) in combination, shall be treated as the Development Lot, (ii) may be contiguous or non-contiguous, (iii) need not be in the same ownership, and (iv) shall be considered as one lot for all calculation purposes, including parking requirements and Dwelling Units per acre. Any development undertaken on a Development Lot is subject to the Design Guidelines established under subsection I, Design Guidelines, of this Section. The owner of any such Development Lot shall be entitled to lawfully divide such lot without modifying the approved Site Plan and without the need for other approvals.

Development Project - A development comprising any permitted uses provided for hereunder undertaken under this Section. A Development Project shall be identified on a Site Plan which is submitted to the Approving Authority for Site Plan Review.


Eligible Household - An individual or household whose annual income is at or below eighty percent (80%) of the area-wide median income as determined by the United States Department of Housing and Urban Development ("HUD"), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Gross Floor Area - The floor area of space on all floors inclusive of heated basements, hallways, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.

Gross Leasable Floor Area - The area of a building exclusive of hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant.

Multi-Family Dwelling - A residential building containing four or more dwelling units.

Office or Office Use - A place for the regular performance of business transactions and services, generally intended for administrative, professional and clerical activities, including a medical or dental office or health clinic.

Office High-Tech or Office High-Tech Use - A place for the regular performance of research and development, high tech, biotechnology, life sciences and/or other related uses, provided that such use does not involve disturbing or offensive noise, vibration, smoke, gas, fumes, odors, dust or other objectionable or hazardous features.
**Principal Use** - The main or primary purpose for which a structure, building, or Development Lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained under this Section. More than one Principal Use is permitted as-of-right on a Development Lot or within a Development Project.

**Recreational Accessory Use** - A use subordinate to a Principal Residential Use on the same Development Lot or in the same structure and serving a purpose customarily incidental to the Principal Residential Use, and which does not, in effect, constitute conversion of the Principal Use of the Development Lot, site or structure to a use not otherwise permitted in the District. Recreational Accessory Uses may include, but are not limited to greenhouse, tool shed, clubhouse, swimming pool, tennis court, basketball court, and playground.

**Recreational Use** - The principal use or intended principal use of land or structures for relaxation, entertainment, amusement, sports, or the like, whether on a fee or non-fee basis.

**Restaurant** - Any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises.

**Small-Scale Retail Establishment** - A business establishment, not exceeding 5,000 sq. ft. of gross leasable floor area, selling goods and/or services to customers on site, generally for end-use personal, business, or household consumption. A reasonable amount of storage of said goods shall also be assumed to be an integral part of small-scale retail use.

**Site Plan** - A plan depicting a proposed Development Project for all or a portion of the District and which is submitted to the Approving Authority for its review and approval in accordance with the provisions of I. SITE PLAN REVIEW of this Bylaw.

**Site Plan Approval** - The Approving Authority’s authorization for a proposed Development Project based on a finding of compliance with this Section of the Bylaw and Design Guidelines after the conduct of a Site Plan Review.

**Site Plan Review** - The review procedure established by this Section and administered by the Approving Authority. **While similar to Site Plan Review as established in Section XVIA, Project Approval, of this Bylaw, Site Plan Review as used and referenced in this Section is a separate and distinct process not subject to the provisions of Section XVIA.**

**Underlying Zoning** - The zoning requirements adopted pursuant to Mass. Gen. Laws Ch. 40A that are otherwise applicable to the geographic area in which the District is located, as said requirements may be amended from time to time.

**Unrestricted Unit** - A Dwelling Unit that is not restricted as to rent, price or eligibility of occupants.
C. Establishment and Delineation of Districts

1. Generally

The specific districts established under this Section shall serve as overlay districts, to be superimposed over the underlying zoning districts. The boundaries of the districts are delineated on the Zoning District Map of the Town of Wellesley, pursuant to Section I, Establishment of Districts, of the Zoning Bylaw.

2. Specific Districts

The following are the specific districts established under this Section:

a. Wellesley Park Smart Growth Overlay District; as contained in Section XIVJ.1, Wellesley Park Smart Growth Overlay District

D. Authority and Applicability

The districts established under this Section are done so pursuant to the authority of Mass. Gen. Laws Ch. 40R and 760 CMR 59.00. At the option of the Applicant, development of land within the Districts established pursuant to this Section may be undertaken by means of a Site Plan Approval pursuant to the zoning controls set forth in this Section, or by complying with all applicable Underlying Zoning controls set forth in the Zoning Bylaw of the Town of Wellesley. Notwithstanding anything to the contrary in the Zoning Bylaw, Development Projects proceeding under this Section shall be governed solely by the provisions of this Section and the standards and/or procedures of the Underlying Zoning shall not apply. Development Projects proposed pursuant to this Section shall not be subject to any other provisions of the Zoning Bylaw, except as may be specifically provided for herein, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to other building permit or Dwelling Unit limitations; where other provisions of the Zoning Bylaw are specifically referenced as applying to Development Projects, generally under this Section or within the districts established under this Section, such provisions shall be administered as established as of the date of adoption of this Section, unless amendments are subsequently approved the Massachusetts Department of Housing and Community Development.

E. Site Plan Review

Development Projects within districts established pursuant to this Section shall be subject to the The Approving Authority shall adopt and file with the Town Clerk administrative rules relative to the Application requirements and contents for Site Plan Review. Such administrative rules and any amendment thereto must be approved by the Department of Housing and Community Development. The Site Plan Review process encompasses the following. Development Projects within such districts shall not be
subject to the Site Plan Review process established under Section XVIA, Project Approval, of the Zoning Bylaw.

1. **Pre-Application Review**

   The Applicant is encouraged to participate in a pre-Application application review at a regular meeting of the Approving Authority. The purpose of the pre-Application application review is to minimize the Applicant’s cost of engineering and other technical experts, and to obtain the advice and direction of the Approving Authority prior to filing the Application. At the pre-Application application review, the Applicant shall outline the proposal and seek preliminary feedback from the Approving Authority, other municipal review entities, and members of the public. The Applicant is also encouraged to request a site visit by the Approving Authority and/or its designee in order to facilitate pre-Application review.

2. **Application Procedures**

   a. The Applicant shall file an original of the Application with the Town Clerk for certification of the date and time of filing. Said filing shall include any required forms provided by the Approving Authority. A copy of the Application, including the date and time of filing certified by the Town Clerk, as well as the required number of copies of the Application, shall be filed forthwith by the Applicant with the Approving Authority and Building Inspector. As part of any Application for Site Plan Approval for a Development Project, the Applicant must submit the following documents to the Approving Authority and the Administering Agency:
      
      i. Evidence that the Development Project complies with the cost and eligibility requirements of subsection K., Housing and Housing Affordability;
      
      ii. Development Project plans and reports that demonstrate compliance with the design and construction standards of subsection K., Housing and Housing Affordability; and
      
      iii. A form of Affordable Housing Restriction that satisfies the requirements of subsection K., Housing and Housing Affordability.

   b. Upon receipt by the Approving Authority, Applications shall be distributed to the Planning Board, Building Inspector, Fire Chief, Police Chief, Health Department, Wetlands Protection Committee, Design Review Board, the Board of Selectmen, and the Department of Public Works. Any reports from these parties shall be submitted to the Approving Authority within thirty (30) days of filing of the Application; and

   c. Within thirty (30) days of filing of an Application with the Approving Authority, the Approving Authority or its designee shall evaluate the proposal with regard to
its completeness and shall advise the Applicant whether the Application is complete or whether additional materials are required. If the Application is deemed incomplete, the Approving Authority or its designee will identify with specificity what additional materials are required, submit an advisory report in writing to the Applicant certifying the completeness of the Application. The Approving Authority or its designee shall forward to the Applicant, with its report, copies of all recommendations received to date from other boards, commissions or departments.

3. Public Hearing

The Approving Authority shall hold a public hearing and review all Applications according to the procedure specified in Mass. Gen. Laws Ch. 40R Section 11 and 760 CMR 59.04(1)(f).

3.4 Site Plan Approval Decision

a. The Approving Authority shall make a decision on the Site Plan Application, and shall file said decision with the Town Clerk, within one hundred twenty (120) days of the date the Application was received by the Town Clerk. The time limit for public hearings and taking of action by the Approving Authority may be extended by written agreement between the Applicant and the Approving Authority. A copy of such agreement shall be filed with the Town Clerk;

b. Failure of the Approving Authority to take action within one hundred twenty (120) days or extended time, if applicable, shall be deemed to be an approval of the Application;

c. An Applicant who seeks approval because of the Approving Authority’s failure to act on an Application within the one hundred twenty (120) days or extended time, if applicable, must notify the Town Clerk in writing of such approval, within fourteen (14) days from the expiration of said time limit for a decision, and that a copy of that notice has been sent by the Applicant to the parties in interest by mail and that each such notice specifies that appeals, if any, shall be made pursuant to Mass. Gen. Laws Ch. 40R and shall be filed within twenty (20) days after the date the Town Clerk received such written notice from the Applicant that the Approving Authority failed to act within the time prescribed;

d. The Approving Authority’s findings, including the basis of such findings, shall be stated in a written decision of approval, conditional approval or denial of the Application for Site Plan Approval. The written decision shall contain the name and address of the Applicant, identification of the land affected and its ownership, and reference by date and title to the plans that were the subject of the decision. The written decision shall certify that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the Approving Authority;
e. The decision of the Approving Authority, together with the detailed reasons therefor, shall be filed with the Town Clerk, the Planning Board, and the Building Inspector. A certified copy of the decision shall be mailed to the owner and to the Applicant, if other than the owner. A notice of the decision shall be sent to the parties in interest and to persons who requested a notice at the public hearing; and

f. Effective date. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. If the Application is approved by reason of the failure of the Approving Authority to timely act, the Town Clerk shall make such certification on a copy of the notice of Application. A copy of the decision or notice of Application shall be recorded with the title of the land in question in the Norfolk County Registry of Deeds, and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner’s certificate of title. The responsibility and the cost of said recording and transmittal shall be borne by the owner of the land in question or the Applicant.

4.5 Criteria for Approval

The Approving Authority shall approve the Development Project upon the following findings:

a. The Applicant has submitted the required fees and information as set forth in applicable regulations;

b. The proposed Development Project as described in the Application meets all of the requirements and standards set forth in this Section and applicable Design Guidelines, or a waiver has been granted therefrom; and

c. Any extraordinary adverse potential impacts of the Development Project on nearby properties have been adequately mitigated.

For a Development Project subject to the Affordability requirements of subsection K., Housing and Housing Affordability, compliance with condition (b) above shall include written confirmation by the Approving Authority that all requirements of that Section have been satisfied. Prior to the granting of Plan Approval for a Project, the Applicant must demonstrate, to the satisfaction of the Administering Agency, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town of Wellesley.

5.6 Criteria for Conditional Approval
The Approving Authority may impose conditions on a Development Project as necessary to ensure compliance with the District requirements of this Section and applicable Design Guidelines, or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties or the surrounding area, insofar as such conditions are compliant with the provisions of Mass. Gen. Laws Ch. 40R and applicable regulations and do not unduly restrict (i.e. by adding unreasonable costs or by unreasonably impairing the economic feasibility of a proposed Development Project) opportunities for residential development.

6.7 Criteria for Denial

The Approving Authority may deny an Application for Site Plan Approval pursuant to this Section of the Bylaw only if the Approving Authority finds one or more of the following:

a. The Development Project does not meet the requirements and standards set forth in this Section and applicable Design Guidelines; or

b. The Applicant failed to submit information and fees required by this Section and necessary for an adequate and timely review of the design of the Development Project or potential Development Project impacts; or

c. The Development Project, in the Approving Authority’s discretion, would result in adverse impacts on nearby properties that cannot be mitigated by For a Development Project that contains Dwelling Units, it is not possible to adequately mitigate significant adverse Development Project impacts on nearby properties by means of suitable conditions.

Notwithstanding the foregoing, the Approving Authority may deny an Application for a Development Project that does not contain Dwelling Units that, in the Approving Authority’s discretion, would result in adverse impacts that cannot be mitigated to the reasonable satisfaction of the Approving Authority.

A project approval shall remain valid and shall run with the land indefinitely provided that construction has commenced within two (2) years after the decision issues, which time shall be extended by the time required to adjudicate any appeal from such approval. Said time shall also be extended if the project proponent is actively pursuing other required permits for the project or if there is good cause for the failure to commence construction, or as may be provided in an approval for a multi-phase Development Project.

11.9 Appeals

Pursuant to Mass. Gen. Laws Ch. 40R Section 11, any person aggrieved by a decision of the Approving Authority may appeal to the Superior Court, the Land Court, or
other court of competent jurisdiction within twenty (20) days after the Site Plan decision has been filed in the office of the Town Clerk.

10. Rules and Regulations

   The Approving Authority shall adopt administrative rules relative to the Application requirements and contents for Site Plan Review; such rules shall be filed with the Town Clerk. Such administrative rules, and any amendment thereto, must be approved by the Department of Housing and Community Development.

F. Waivers

   The Approving Authority may waive the bulk and dimensional provisions required by any district created pursuant to this Section of this G. DIMENSIONAL AND OTHER REQUIREMENTS and may waive specific requirements of applicable Design Guidelines upon a finding that such waiver will allow the Development Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section or the specific district.

G. Project Phasing

   The Approving Authority, as a condition of any Site Plan Approval, may allow a Development Project to be constructed in one or more phases.

H. Change in Plans After Approval by the Approving Authority

   1. Minor Change

      After Site Plan Approval, an Applicant may apply to make minor changes in a Development Project involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall build out or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the Approving Authority on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the Approving Authority. The Approving Authority may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The Approving Authority shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the Applicant for filing with the Town Clerk.

   2. Major Change

      Those changes deemed by the Approving Authority to constitute a major change in a Development Project because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a
minor change as described above, shall be processed by the Approving Authority as a new Application for Site Plan Approval pursuant to this Section.

I. Design Guidelines

To ensure that new development shall be of high quality, and shall meet the standards envisioned by the Town of Wellesley in adopting this Bylaw Section and any districts established under this Section, the Approving Authority shall adopt the Design Guidelines governing the issuance of Site Plan Approvals for Development Projects within the Districts established under this Section and shall file a copy with the Town Clerk. In addition to the standards set forth in this Bylaw, the physical character of Development Projects within the Districts shall comply with such Design Guidelines. In the event of any conflict between this Bylaw and the Design Guidelines, this Bylaw shall govern and prevail.

J. Fair Housing Requirement

All Development Projects within the districts established herein shall comply with applicable federal, state and local fair housing laws.

K. Housing and Housing Affordability

1. Number of Assisted/Affordable Units

Twenty-five percent (25%) of all Dwelling Units constructed in a Development Project shall be maintained as Assisted/Affordable Units. When the application of this percentage results in a fractional number of required Dwelling Units, the fractional number shall be rounded up to the next whole number.

2. General Requirements

Assisted/Affordable Units shall comply with the following requirements:

a. The monthly rent payment for an Affordable Rental Unit, including utilities and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by DHCD shall apply;

b. For an Affordable Homeownership Unit, the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed thirty percent (30%) of the maximum monthly income permissible for an Eligible Household, assuming a Family size equal to the number of bedrooms in the unit plus one; and
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c. Assisted/Affordable Units required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

3. Design and Construction

a. Design. Assisted/Affordable Units must be dispersed throughout a Development Project and be comparable in initial construction quality and exterior design to the Unrestricted Units. However, nothing in this section is intended to limit a homebuyer’s rights to renovate a Dwelling Unit under applicable law. The Assisted/Affordable Units must have access to all on-site amenities. Assisted/Affordable Units shall be finished housing units; and

b. Timing. All Assisted/Affordable Units must be constructed and occupied not later than concurrently with construction and occupancy of Unrestricted Units and, for Development Projects that are constructed in phases, Assisted/Affordable Units must be constructed and occupied in proportion to the number of units in each phase of the Development Project.

4. Unit Mix

The total number of bedrooms in the Assisted/Affordable Units shall, insofar as practicable, be in the same proportion to the total number of bedrooms in the Unrestricted Units.

5. Affordable Housing Restriction

Each Assisted/Affordable Unit shall be subject to an Affordable Housing Restriction which is recorded with the Norfolk County Registry of Deeds or the Land Court. The Affordable Housing Restriction shall provide for the implementation of the requirements of this Section. All Affordable Housing Restrictions must include, at minimum, the following:

a. Description of the Development Project, including whether the Assisted/Affordable Unit will be rented or owner-occupied;

b. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Development Project containing Dwelling Units or portion of a Development Project containing Dwelling Units which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Development Project containing Dwelling Units or the rental portion of a Development Project containing Dwelling Units without specific unit identification.
c. The term of the Affordable Housing Restriction shall be the longest period customarily allowed by law but shall be no less than thirty (30) years.

d. The name and address of an Administering Agency with a designation of its power to monitor and enforce the Affordable Housing Restriction;

e. Reference to a housing marketing and resident selection plan, to which the Assisted/Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan shall provide for local preferences in resident selection to the maximum extent permitted under applicable law. The plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that preference for such unit shall be given to a household of the appropriate size;

f. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

g. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership unit will be set;

h. A requirement that only an Eligible Household may reside in an Assisted/Affordable Unit and that notice of any lease or sublease of any Assisted/Affordable Unit to another Eligible Household shall be given to the Administering Agency;

i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Administering Agency;

j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Administering Agency and the Town of Wellesley, in a form approved by town counsel, and shall limit initial sale and re-sale to and occupancy by an Eligible Household;

k. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Development Project containing Dwelling Units shall run with the rental Development Project containing Dwelling Units or rental portion of a Development Project containing Dwelling Units and shall run in favor of the Administering Agency and/or the municipality, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;

l. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the Administering Agency, in a form specified by that agency, certifying compliance with the provisions of this Bylaw and containing such other information as may be reasonably requested in order to ensure affordability;
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m. A requirement that residents in Assisted/Affordable Units provide such information as the Administering Agency may reasonably request in order to ensure affordability; and

n. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions.

6. Administration

   a. Administering Agency. The Administering Agency shall ensure the following:

      i. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;

      ii. Income eligibility of households applying for Assisted/Affordable Units is properly and reliably determined;

      iii. The housing marketing and resident selection plan conforms to all requirements and is properly administered;

      iv. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and

      v. Affordable Housing Restrictions meeting the requirements of this section are recorded with the Norfolk County Registry of Deeds or the Land Court.

b. Housing Marketing and Selection Plan. The housing marketing and selection plan may make provision for payment by the Applicant of reasonable costs to the Administering Agency to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements.

c. Failure of the Administering Agency. In the case where the Administering Agency cannot adequately carry out its administrative duties, upon certification of this fact by the Board of Selectmen or by the Department of Housing and Community Development, the administrative duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board of Selectmen or, in the absence of such designation, by an entity designated by the Department of Housing and Community Development.

K. Annual Update
On or before July 31 of each year, the Board of Selectmen shall cause to be filed an Annual Update with the DHCD in a form to be prescribed by DHCD. The Annual Update shall contain all information required in 760 CMR 59.07, as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Wellesley shall maintain a copy of all updates transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

L. Notification of Issuance of Building Permits

Upon issuance of a residential building permit within the districts established herein, the Building Inspector of the Town of Wellesley shall cause to be filed an application to the DHCD, in a form to be prescribed by DHCD, for authorization of payment of a one-time density bonus payment for each residential building permit pursuant to Mass. Gen. Laws Ch. 40R. The application shall contain all information required in 760 CMR 59.06(2), as may be amended from time to time, and additional information as may be required pursuant to Mass. Gen. Laws Ch. 40S and accompanying regulations. The Town Clerk of the Town of Wellesley shall maintain a copy of all such applications transmitted to DHCD pursuant to this Bylaw, with said copies to be made available upon request for public review.

M. Date of Effect

The effective date of this Bylaw shall be the date on which such adoption is voted upon by Town Meeting pursuant to the requirements of Mass. Gen. Laws Ch. 40A Section 5 and Mass. Gen. Laws Ch. 40R; provided, however, that an Applicant may not proceed with construction pursuant to this Bylaw prior to the receipt of final approval of this Bylaw and accompanying Zoning Map by both the DHCD and the Office of the Massachusetts Attorney General.

N. Severability

If any provision of this Section and/or any provision associated with a specific district created under this Section is found to be invalid by a court of competent jurisdiction, the remaining provisions of this Section shall not be affected but shall remain in full force. The invalidity of any provision of this Section shall not affect the validity of the remainder of the Zoning Bylaws of the Town of Wellesley.
A. Purpose

The purposes of this Section are:

1. To establish a specific District pursuant to the provisions of Section XIVJ, Smart Growth Overlay Districts, of the Zoning Bylaw;

2. To establish the Wellesley Park Smart Growth Overlay District to promote the redevelopment of the Wellesley Office Park into a vibrant, workable, livable community with a rich sense of place in a form that meets the objectives of “smart growth” within the purposes of Mass. Gen. Laws Ch. 40R;

3. To provide for a more diversified housing stock within the Town of Wellesley, including affordable housing and housing types that meet the needs of the Town’s population, all as currently identified in the Wellesley Housing Production Plan;

4. To promote advanced site planning, sustainable design, improved transportation management, and environmental enhancements in the mixed-use redevelopment of the Wellesley Park Overlay District; and

5. To generate positive tax revenue, and to benefit from the financial incentives provided by Mass. Gen. Laws Ch. 40R, while providing the opportunity for new business growth and additional local jobs.

B. Establishment and Delineation of District

This District, to be known as the Wellesley Park Smart Growth Overlay District (or the “Wellesley Park Overlay District”), is established pursuant to and subject to the provisions of Section XIVJ, Smart Growth Overlay Districts, of the Zoning Bylaw. The Wellesley Park Overlay District is an overlay district having a land area of approximately 26 acres in size that is superimposed over the underlying zoning district. The boundaries of the Wellesley Park Overlay District are delineated as the “Wellesley Park Smart Growth Overlay District” on the Zoning Map of the Town of Wellesley.

C. Permitted Uses

1. The following uses, either alone or in any combination thereof, shall be permitted upon Site Plan Approval pursuant to the provisions of this Section and Section XIVJ, Smart Growth Overlay Districts. All uses not expressly allowed are prohibited.

   a. Multi-Family Dwellings;

   b. Small-Scale Retail Establishments
c. Restaurants, excluding drive-through windows or service;
d. Assisted Elderly Housing;
e. Independent Elderly Housing;
f. Nursing Homes and Skilled Nursing Facility;
g. Offices;
h. Office-High Tech;
i. Hotels;
j. Banks;
k. Conservation;
l. Recreational Uses;
m. Parking accessory to any of the above uses, including surface parking, parking under buildings, and above- and below-grade structured parking; and

p. Accessory Uses to any of the above uses.

2. The following uses, in excess of applicable thresholds if noted below, shall require the issuance of a Project of Significant Impact Special Permit pursuant to Section XVIA, Project Approval, of the Zoning Bylaw, as a prerequisite to Site Plan Approval; if such use is proposed in combination with another, otherwise permitted use, the otherwise permitted use shall not be subject to issuance of a Project of Significant Impact Special Permit:
   a. Restaurants;
b. Assisted Elderly Housing;
c. Independent Elderly Housing;
d. Nursing Homes and Skilled Nursing Facility;

e. Offices and Office-High Tech in excess of 580,000 gross square feet if such use is reduced to less than 580,000 gross square feet (i.e. a demolition of existing office space); and

f. Hotels
D. Dimensional and Other Requirements

Buildings and Development Lots within the Wellesley Park Overlay District shall be subject to the following requirements:

1. Density

   Development of the following uses within the Wellesley Park Overlay District shall be limited, as follows:

   a. Multi-family dwellings: no more than five hundred fifty (550) dwelling units or twenty (20) units per acre based on the entire area of the District, whichever is greater.

   b. Small-Scale Retail Establishments: not to exceed a total of 12,000 gross square feet.

   c. Offices and Office-High Tech: not to exceed a total of 700,000 gross square feet; and

   d. Hotels: not to exceed a total of 150 rooms.

2. Total Allowable New Non-Residential Uses

   The total non-residential Gross Leasable Floor Area within the District, including but not limited to Small-Scale Retail, Restaurant, Assisted Elderly Housing, Independent Elderly Housing, Nursing Homes and Skilled Nursing Facility, Office, Hotel, Bank, Office-High Tech, and Recreational Uses, but excluding all existing Gross Leasable Floor Area within the District in existence on the date of adoption of this Section (“Existing Floor Area”), shall not exceed 49% of the residential Gross Leasable Floor Area (constructed and planned). To the extent the Existing Floor Area is reduced for any reason whatsoever, it may be replaced with new non-residential Gross Leasable Floor Area without impacting this calculation.

   a. Subject to the limit on Maximum Residential Development in Paragraph 8 below, Multi-Family Dwelling Units shall be permitted As-of-Right at a density of at least twenty (20) Dwelling Units per acre of Developable Land.

3. Minimum Area

   There shall be no minimum area of a Development Lot within the Wellesley Park Overlay District.

4. and Setbacks/Yards

   There shall be no minimum Development Lot area or setback or yard requirements within the Wellesley Park Overlay District, District except for the District.
3.5 Buffer from Adjacent Property

A minimum buffer of twenty-five (25) feet shall be maintained along the perimeter of the Wellesley Park Overlay District boundary. No vertical construction or pavement shall be allowed within this minimum buffer, provided that the following elements shall be permitted: pedestrian paths and sidewalks; vehicular access points to the District; cart paths to serve adjacent recreational uses; such emergency access and egress as may be required by the Town of Wellesley; drainage facilities; utilities and related easements but not including a wastewater treatment facility; landscaping; plantings; fences and walls; and signage and lighting approved by the Approving Authority pursuant to this Section.

4.6 Height

The maximum height of buildings and structures in a Development Project in the Wellesley Park Overlay District shall be eighty-eight (88) feet, except that the aggregate height of all buildings in the Wellesley Park Overlay District shall not exceed 560 feet based on the maximum height of each individual building; independent parking structures shall not be included in the calculation of aggregate height.

For the purposes of development projects within the Wellesley Park Overlay District, building or structure height shall be the distance between average finished grade adjacent to the building, exclusive of basements, and the ceiling of the upper-most occupied space in the building in the case of flat roofs and, in the case of buildings with pitched roofs, at the point at which such ceiling intersects with the exterior portion of the building. The calculation of building height shall not apply to roof tanks and their supports, roof decks, ventilating, air conditioning and similar building service equipment, chimneys, railings, skylights, mechanical penthouses, and other similar features of buildings which are in no way designed or used for living purposes nor the portion of the pitched roof above the intersection of the ceiling of the upper-most heated space and the exterior of the building.

5.7 Non-Frontage Development

In the Wellesley Park Overlay District and on parcels that are contiguous to the Wellesley Park Overlay District, a Development Lot lacking frontage may be developed and used without regard to the lack of frontage, provided that the non-frontage development has permanent access to a private or public way that is located within the Wellesley Park Overlay District through easements recorded with the Norfolk County Registry of Deeds and appropriate provisions are made for parking, drainage and utilities. The development and use of such non-frontage development located entirely within the District shall be consistent with the requirements of this Section. Such non-frontage development may be subdivided and sold or transferred,
provided that each Development Lot so subdivided retains or is granted such cross access, drainage and utility easements to serve such non-frontage development. Should such transfer occur after an approval hereunder, in addition to the easements referenced above, the transeree shall demonstrate to the Approving Authority that the non-frontage development shall remain in compliance with any conditions of Site Plan Approval and, for parcels that are contiguous to the Wellesley Park Overlay District, with applicable zoning requirements.

6-8. Number of Buildings on a Development Lot

In the Wellesley Park Overlay District, more than one principal building may be erected on a Development Lot. Buildings may also be erected in the Wellesley Park Overlay District across Development Lot lines.

E. Parking

Parking provided in the Wellesley Park Development District, including structured parking, shall comply with these provisions and shall not be subject to Section XXI, Off-Street Parking. Regardless of these requirements, parking shall be designed and constructed to comply with all applicable disability access requirements including, but not limited to, the Americans with Disabilities Act.

1. Required Parking

Parking shall be provided for uses according to Table 1, Required Parking, below. When application of the requirements set forth above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum Parking Required</th>
<th>Maximum Allowable Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-Family Dwelling Unit</td>
<td>1 space per unit</td>
<td>2 spaces per unit</td>
</tr>
<tr>
<td>Small-Scale Retail Establishments</td>
<td>None, if individual establishments are less than 10,000 gross square feet; 3 spaces per 1,000 gross square feet in excess of 10,000 gross square feet</td>
<td>4 spaces per 1,000 gross square feet in excess of 10,000 gross square feet</td>
</tr>
<tr>
<td>Banks</td>
<td>1,000 gross square feet in excess of 10,000 gross square feet</td>
<td>1,000 gross square feet in excess of 10,000 gross square feet</td>
</tr>
<tr>
<td>Restaurant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recreational Uses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Assisted Elderly Housing or Independent Elderly Housing or Nursing Homes and Skilled Nursing Facility</td>
<td>0.25 spaces per bed</td>
<td>1 space per bed</td>
</tr>
</tbody>
</table>
### 10. Parking Requirements

Parking shall be provided within the District in order to meet or exceed the following minimum requirements, subject to the provisions of this H. PARKING REQUIREMENTS:

<table>
<thead>
<tr>
<th>Use</th>
<th>Minimum-Required Parking</th>
<th>Maximum-Permitted Parking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-Family Dwelling Unit</td>
<td>None</td>
<td>2 spaces per unit</td>
</tr>
<tr>
<td>Small-Scale Retail or Bank</td>
<td>None if less than 10,000 gsf total</td>
<td>4 spaces per 1,000 gsf</td>
</tr>
<tr>
<td>Restaurant or Recreational</td>
<td>None if less than 10,000 gsf total</td>
<td>4 spaces per 1,000 gsf</td>
</tr>
<tr>
<td>Assisted Elderly Housing or Nursing Homes</td>
<td>0.25 spaces per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Assisted Elderly Housing or Nursing Homes and Skilled Nursing Facility</td>
<td>0.25 spaces per bed</td>
<td>1 space per bed</td>
</tr>
<tr>
<td>Office or Office-High-Tech</td>
<td>2 spaces per 1,000 gsf</td>
<td>3.2 spaces per 1,000 gsf</td>
</tr>
<tr>
<td>Hotel</td>
<td>0.5 spaces per key</td>
<td>1 space per key</td>
</tr>
<tr>
<td>Conservation</td>
<td>5 dedicated spaces</td>
<td>No maximum</td>
</tr>
</tbody>
</table>

When application of the requirements set forth above results in a number that includes a fraction, the fraction shall be rounded up to the next whole number.

2. **On-street Street parking Parking Offset**

Parking spaces within the [including spaces within the public right-of-way] may be counted toward the minimum parking requirements pursuant to paragraph 1., Required Parking.

3. **Parking Design and Construction Standards**

The design and construction standards for parking shall be approved by the Approving Authority in conjunction with the Site Plan Approval of a Development Project; such design and construction standards shall address the dimensions for parking spaces.
parking spaces, maneuvering aisles, driveways, and landscape islands, and materials and specifications for paving, curbing, lighting, and landscaping.

Each on-street parking space shall measure seven (7) feet in width and twenty-two (22) feet in length, and shall be parallel to the curb line or other edge of pavement.

64.4. Modification in Parking Requirements

Notwithstanding anything to the contrary herein, any minimum required or maximum permitted amount of parking may be modified by the Approving Authority through the Site Plan Approval process, if the Applicant can demonstrate that the modified amount of parking will not cause excessive congestion, endanger public safety, or that a modified amount of parking will provide positive environmental or other benefits, taking into consideration:

a. The availability of public or commercial parking facilities in the vicinity of the use being served;

b. Shared use of parking spaces serving other uses having peak user demands at different times;

c. Age or other occupancy restrictions which are likely to resulting a lower level of auto usage; and

d. Such other factors, including the availability of valet parking, shuttle service, or a transportation management plan as may be considered by the Approving Authority. Where such reduction is authorized, the Approving Authority may impose conditions of use or occupancy appropriate to such reductions.

F. Signage

All signage in the District shall be approved by the Approving Authority in conjunction with the Site Plan Approval of a Development Project, except that the Applicant may elect to submit a master signage plan for approval by the Approving Authority establishing allowances, requirements, and limitations for all signage within the District.

FYI -

• Section I of the Zoning Bylaw will need to be amended to add the Smart Growth Overlay Districts and Wellesley Park Smart Growth Overlay District.
• Also, while we’re at it, the Commercial Recreation Overlay District was not added to Section I when it was created in 2017; may want to consider adding it also.
DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into this ___ day of ______, 2019, by and between the Town of Wellesley (the “Town”), acting by and through its Board of Selectmen, and John Hancock Life Insurance Company (U.S.A.), a Michigan corporation (the “Owner,” and together with the Town, the “Parties”).

RECITALS

WHEREAS, the Owner owns certain real property comprising approximately 26 acres of land known as the Wellesley Office Park located within the Administration & Professional (“AP”) zoning district along Boylston Street (Route 9), Wellesley, Norfolk County, Massachusetts (the “Site”), which Site is more particularly described and depicted on Exhibit A attached hereto and incorporated herein;

WHEREAS, the Site is identified in the Town’s Housing Production Plan as a priority site for multi-family and mixed-use residential development in order to produce housing units eligible to be counted on the Town’s subsidized housing inventory (“SHI”), a critical municipal housing production goal;

WHEREAS, the Town desires to have a minimum of ten percent of its housing stock be eligible for and included in the SHI;

WHEREAS the Town currently has 663 units of affordable housing listed on the SHI and needs and additional 336 units of affordable housing to reach its goal of having a minimum of ten percent of its housing stock be included in the SHI;

WHEREAS, the Owner is planning for the phased, mixed-use redevelopment of the Site (the “Project”) that is anticipated to advance this important housing production goal by adding approximately 350 units of SHI-eligible affordable housing units in the first phase of the Project (“Phase I”) while also providing net positive fiscal and other benefits to the Town, including direct financial payments to the Town under G.L. c. 40R, as supported by a fiscal analysis performed on behalf of the Owner and peer-reviewed on behalf of the Town;

WHEREAS, Phase I is anticipated to include the demolition of the office building at 40 William Street and the construction of an approximately 350 unit residential apartment building and parking garage along with limited accessory retail space, landscaping and associated site improvements, as depicted in the conceptual plan attached hereto as Exhibit B;

WHEREAS, Phase I will also contribute towards the Town’s Unified Plan, which recommends that the Town Planning Board amend zoning to allow multifamily residential development in current office park areas, including mixed use options;
WHEREAS, subsequent Project phases are not yet fully defined but are anticipated to require razing additional existing office buildings which may be replaced by a mix of potential uses, including a maximum of up to 250 units of additional rental housing, a limited service hotel, additional accessory retail, and/or new office space, the size and configuration of which has not yet been determined;

WHEREAS the Department of Housing and Community Development (“DHCD”) has issued a “Letter of Eligibility” dated [______________], 2019, finding that the proposed Wellesley Park Smart Growth Overlay District (the “District”) meets the approval requirements established pursuant to G.L. c. 40R and 760 CMR 59.04(1) in order to establish a “Smart Growth” overlay zoning district;

WHEREAS, to further the Town’s housing production goals through the development of the Project, the Town is seeking approval by Wellesley Town Meeting of the Wellesley Park Smart Growth Overlay District, Sec. XIVJ.1. of the Zoning Bylaw of the Town (the “District Bylaw”), an overlay zoning district prepared pursuant to G.L. c. 40R and accompanying regulations at 760 CMR 59.00, encompassing the Site;

WHEREAS, engineering studies supporting the adequacy of existing or practicably upgraded water, sewer, electric, and traffic infrastructure serving the Site have been performed on behalf of the Owner and/or Town and have been reviewed by the Town;

WHEREAS, based on the engineering studies that have been performed, the parties have identified the water, sewer, and traffic infrastructure improvements in connection with Phase I of the redevelopment of the Property, and which will be undertaken by the Owner as provided for herein;

WHEREAS, under the provisions of said G.L. c. 40R and the regulations promulgated thereunder, the Town has certified that the impacts of the build-out of the 600 residential units that would be allowed if the District Bylaw is approved will not overburden Site infrastructure as it exists or may be practicably upgraded to provide adequate accommodation of the demands of the District’s existing and future residents and uses;

WHEREAS, this Agreement is entered into by the Parties in an effort to establish a framework to supplement the District Bylaw and facilitate (i) the development of housing units to count on the Town’s SHI as well as (ii) infrastructure upgrades and other improvements to benefit the District and the Town in conjunction with the phased development of the Project;

NOW, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. HOUSING

1.1 Number of Units. The Owner agrees with the Town that there shall be a maximum of 600 dwelling units allowed upon the Site, which shall be developed in an initial
phase involving 350 units and a subsequent phase or phases involving an additional 250 units of additional housing. The Owner shall not develop, apply for, permit or construct any additional dwelling units on the Site, whether pursuant to the Town's Zoning Bylaws, G.L. c.40B, Sections 20-23, or otherwise.

1.2 Housing Style. The Owner agrees that all dwelling units constructed on Site shall be apartment style.

1.3 Affordable Rental Housing. The Owner agrees that all residential housing units developed upon the Site up to the maximum of 600 units allowed under the District Bylaw shall be rental housing, and that no less than 25% of such housing units shall be affordable units, qualifying for enumeration under G.L. c. 40B, Sections 20-23 (the "Affordable Units"), to ensure that all housing units developed upon the Site count on the Town's SHI.

1.4 Local Preference. To the maximum extent permitted by law and applicable regulation, local preference for the occupancy of Affordable Units within the Project shall be given to residents of the Town satisfying all applicable eligibility requirements.

1.5 Miscellaneous. The Owner shall undertake a lottery and implement an Affirmative Fair Housing Marketing Plan to solicit interest for the occupancy of Affordable Units in accordance with applicable DHCD procedures then in effect. Consistent with the terms and conditions established in this section, the Owner and the Town, in concert with DHCD’s review and approval, shall draft and execute a binding recordable affordable housing agreement that will detail the protocol for the marketing, leasing, management and oversight of the Affordable Units.

2. WATER AND SEWER INFRASTRUCTURE

2.1 Water Improvements. Municipal water infrastructure improvements supporting the Project are informed by the memorandum prepared by Stantec Consulting Services, Inc. dated February 25, 2019 attached hereto as Exhibit C (the “Stantec Memorandum”), with additional consultation from the Town Department of Public Works. In preparation for the development of the Project, the Owner will coordinate with the Town and the Massachusetts Department of Transportation (“MassDOT”) to prepare plans and specifications, obtain necessary permits, and privately install a new 12" water line (the “Water Line”) paralleling the existing 12" water line running east-west under Route 95 prior to the issuance of a final certificate of occupancy for the Phase I building, estimated to cost approximately $500,000. The Owner’s obligation to complete the installation of the Water Line is subject to the final design and construction approval of MassDOT and the Town for the new Water Line.

2.2 Sewer Improvements. Municipal sewer improvements supporting the Project are informed by the Stantec Memorandum with additional consultation from the Town Department of Public Works. In preparation for the development of the Project, the Owner will coordinate with the Town, at the Owner’s sole cost and expense, to complete the design, permitting and installation of a replacement sewer pump station on the Site, which specifications shall be approved by the Town and which shall include a properly sized wet well, dual operation pumps
on a serviceable slide rail system with an emergency backup power source, estimated to cost approximately $310,000. Upon completion of the new pump station, the Owner will take responsibility for all costs associated with its ongoing operation and maintenance. The Owner will also coordinate with the Town and MassDOT to prepare plans, obtain necessary permits, and privately install a new 6" force main (the “Sewer Line”) as a replacement to the existing 4" force main running east-west under Route 95 prior to the issuance of a certificate of occupancy for the Phase I building, estimated to cost approximately $500,000. The Owner’s obligation to complete the installation of the Sewer Line is subject to the final design and construction approval of MassDOT and the Town.

2.3 **Town Water Line and Sewer Line Contribution.** Upon completion of the installation of the Water Line and the Sewer Line, the Owner shall submit to the Town documentation detailing the total cost incurred by the Owner to complete the Water Line and the Sewer Line (the “Cost Summary”). The Town shall contribute to the Owner fifty percent (50%) of the total project costs incurred by the Owner in planning, permitting, and installing both the Water Line and the Sewer Line, in an amount not to exceed the lesser of (i) $500,000 and (ii) the money it receives from the Commonwealth of Massachusetts in the form of “Incentive Payments” and “Bonus Payments” from the Project pursuant to G.L. c.40A (the “Town Infrastructure Contribution”). Such payment to the Owner shall be contingent upon actual receipt of the 40R Payments (defined herein). The Town Infrastructure Contribution shall be paid in one or more installments to the Owner within thirty (30) days of the Town's receipt of (i) the Cost Summary and (ii) “Incentive Payments” and/or “Bonus Payments” from the Commonwealth of Massachusetts pursuant to G.L. c. 40R (the “40R Payments”). The Parties acknowledge that, (i) the Water Line and Sewer Line cost estimates are based upon best-available known information; and (ii) at the time of completion, are considered adequate to serve the first and subsequent phases of the Project, that such estimates are not informed by subsurface exploration, groundwater, or other design conditions. In the event unanticipated subsurface conditions are identified in the course of the design of the Water Line and Sewer Line that result in significantly increased estimated costs of such Water Line or Sewer Line, the therefore, the Town agrees that if it seeks a change in scope the Water Improvements and Sewer Improvements described above, the Town will first and the Owner agree to negotiate in good faith to reassess their obligations contained herein.

3. **TRANSPORTATION**

3.1 **Phase I Traffic Improvements.** Transportation improvements supporting Phase I of the Project are informed by the Preliminary Transportation Impact Analysis memorandum (the “Traffic Memorandum”) prepared by Vanasse & Associates, Inc. dated March 21, 2019 attached hereto as Exhibit D, with additional consultation from BETA Group on behalf of the Town. In support of the development of Phase I of the project, the Owner will coordinate with the Town and MassDOT, at their sole cost and expense, to prepare plans, obtain necessary permits, and implement the traffic safety and operational improvements at the William Street/Frontage Road intersection that are identified in the Traffic Memorandum (the “Phase I Traffic Improvements”) prior to the issuance of a final certificate of occupancy for the Phase I building. The Owner and the Town acknowledge that the Phase I Traffic Improvements require final design and construction approval of MassDOT which may result in design modifications or alternative

**Commented [TH3]: I believe we agreed to contain scope creep, not to reopen negotiations.**

**Commented [TH2]: The Town is willing to be flexible on these requirements. But first we need to understand which of these tasks is required by the State and which tasks are at the Town’s request. Those tasks that are at the Town’s request will not be required. We’ll leave it to the Owner to determine what is in its interest to do and when. In exchange, the Town would like the Owner to agree to cover the cost of the 25% design work.**
means of improvement. The Owner will also prepare the necessary plans, studies and documentation required to support a formal 25 Percent Design Submission, prepared in accordance with MassDOT design guidelines submittal requirements, to MassDOT for additional improvements to the William Street/Frontage Road/Route 9 intersection, including the addition of a right-turn slip-lane from William Street to the I-95 northbound on-ramp and any associated roadway, traffic control or related improvements (the "Design Submission"), as set forth in the Traffic Memorandum. The Design Submission and associated plans and documentation will be presented to the Town’s Planning Department for review prior to submission to MassDOT, and will be completed and submitted to MassDOT prior to the issuance of a final certificate of occupancy for the Phase I building. In order to encourage alternate means of transit and to minimize, to the extent practicable, the traffic impacts associated with the Project, the Owner also agrees to identify and implement the Transportation Demand Management policies, measures and transportation improvements (“TDM Measures”) associated with Phase I as set forth in the Traffic Memorandum. These TDM Measures shall be reviewed and finalized during the site plan approval process for Phase I. The Owner commits to expending up to $180,000 on the Phase I Traffic Improvements and Design Submission. To the extent the total project costs associated with the completion of the Phase I Traffic Improvements and Design Submission amount to less than $180,000, the Owner shall contribute the balance to the Town to be utilized for municipal infrastructure studies and improvements benefitting the District. Within ninety (90) days of the submission of the Design Submission, the Owner shall submit an accounting of costs associated with the completion of the Phase I Traffic Improvements and Design Submission to the Town (the "Phase I Traffic Costs"). In the event the Phase I Traffic Costs are less than $180,000, the Owner shall contribute to the Town the difference between $180,000 and the Phase I Traffic Costs within forty-five (45) days after the submission of the accounting of such costs to the Town.

3.2 Future Phase Traffic Improvements. Additional traffic and pedestrian improvements may be required in conjunction with future phases of the Project, which are currently undefined in nature and scope. The Owner agrees to assess traffic operations at the Site and the potential traffic impacts of such futures phases of the Project as they are identified and pursued, and to implement additional traffic mitigation measures (including additional TDM Measures) as may be warranted, which measures shall include consideration of all improvements identified in the Design Submission. To the extent that a subsequent traffic study indicates that a existing operations and/or predicted traffic conditions so warrant, the Owner shall, in the course of the site plan review process or Project of Significant Impact Special Permit process, as may be applicable, propose potential traffic improvements to alleviate such impacts to the reasonable satisfaction of the Town, as may be reflected as conditions of site plan approval or Project of Significant Impact Special Permit. The Town and the Owner acknowledge that any future traffic improvements may require final design and construction approval of the Town and MassDOT.

4. EMERGENCY RESPONSE SERVICES

4.1 Communications Equipment. Prior to the issuance of a final certificate of occupancy for the Phase I building and in any future new building containing five (5) or more stories within the Project, the Owner shall coordinate with the police and fire departments to install within such new building or upon the Site, at the Owner's sole cost and expense, police and fire communications equipment as specified by the police and fire department intended to
ensure adequate emergency communications within all portions of such building upon the Site. The estimated cost of this equipment to serve the building within Phase I is approximately $20,000.

5. ENVIRONMENTAL STRATEGIES

5.1 Phase I Environmental Strategies. As design of the Phase I building and potential future development is only at a conceptual stage, the Owner proactively agrees to consider implementation of a comprehensive array of environmental strategies in any new buildings on the Site. These environmental strategies are informed by the summary table prepared by the Owner dated February 28, 2019 attached hereto as Exhibit E (the “Environmental Table”), which has been informed by consultation with the Wetlands Protection Committee, Natural Resources Commission, Trails Committee, and Design Review Board. In order to enhance the Site, the Owner agrees to diligently pursue and, to the extent practicable, implement at its sole cost and expense measures consistent with the environmental strategies for Phase I outlined in the column labeled “Phase I” in the Environmental Table. The Owner shall document the strategies selected for implementation in the course of site plan approval by the Planning Board and review by the Wetlands Protection Committee for the Phase I building.

5.2 Future Phase Environmental Strategies. Prior to the issuance of a certificate of occupancy for the first building constructed after Phase I, the Owner agrees to diligently pursue and implement, as appropriate to the stage of development, at its sole cost and expense measures consistent with the environmental strategies outlined in the column labeled “Phase 2” in the Environmental Table. As with Phase I, the Owner shall document the strategies selected for implementation in the course of review by the Planning Board and the Wetlands Protection Committee for any subsequent new building development upon the Site.

6. MISCELLANEOUS

6.1 Termination. In the event that (i) the District Bylaw is disapproved by DHCD or the Massachusetts Attorney General, or (ii) Owner fails to obtain or maintain all final and effective discretionary federal, state and local permits necessary to allow for the construction and operation of Phase I, upon Owner’s delivery of written notice to the Town, this Agreement shall be null and void.

6.2 Successors and Assigns. The Parties agree that the Owner may amend or otherwise modify the existing subdivision plan of the Site (including through the creation of one or more condominiums or long term ground leases) and may transfer all or any subdivided portion of the Site to another entity (each a "New Entity"), subject to the Owner's and any New Entity’s acknowledgement that:

6.2.1 This Agreement shall run with title to each subdivided portion of the Site and shall be binding upon the Owner insofar as it is the owner of the Site, and each of its successors or assigns as to the obligations which arise under this Agreement during their respective periods of ownership of the Site and/or their respective subdivided portion(s) thereof, provided that each predecessor-in-title shall be forever released from this Agreement upon procuring a written acknowledgment from its immediate successor, addressed to the Town,
acknowledging and agreeing that such successor-in-title is bound by the terms of this Agreement and that this Agreement shall be enforceable against such successor by the Board of Selectmen with respect to such successor's subdivided portion(s) of the Site; and

6.2.2 The obligations created hereunder shall not be treated as assumed by any New Entity until such notice is delivered to the Town.

6.3 Notices. Notices, when required hereunder, shall be deemed sufficient if sent registered mail to the Parties at the following addresses:

Town: Town of Wellesley
Executive Director
525 Washington Street
Wellesley, MA 02482

with a copy to:

Miyares and Harrington LLP
40 Grove Street
Wellesley, MA 02482
Attn: Thomas J. Harrington, Esq.

Owner: John Hancock Real Estate
197 Clarendon Street
Boston, MA 02116
Attn: Anjali U. Chitre, Esq.

with a copy to:

Goulston & Storrs PC
400 Atlantic Avenue
Boston, MA 02110-3333
Attn: Peter L. Tamm, Esq.

6.4 Force Majeure. The Owner shall not be considered to be in breach of this Agreement for so long as the Owner is unable to complete any work or take any action required hereunder due to a force majeure event or other events beyond the reasonable control of the Owner.

6.5 Default; Opportunity to Cure. Failure by either Party to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the defaulting Party fails to commence to cure, correct or remedy such failure within fifteen days of receipt of written notice of such failure from the other Party and thereafter fails to complete such cure, correction, or remedy within sixty days of the receipt of such written notice, or, with respect to defaults that cannot reasonably be cured, corrected or remedied within such sixty-day
period, within such additional period of time as is reasonably required to remedy such default, provided the defaulting Party exercises due diligence in the remedying of such default. Notwithstanding the foregoing, the Owner shall cure any monetary default hereunder within thirty days following the receipt of written notice of such default from the Town. No default hereunder by the owner (whether the Owner or a New Entity) of any subdivided portion of the Site shall be deemed to be a default by any other owner (whether the Owner or a New Entity) of any other subdivided portion of the Site.

6.6 Limitations on Liability. The obligations of the Owner or any New Entity do not constitute personal obligations of their members, trustees, partners, directors, officers or shareholders, or any direct or indirect constituent entity or any of their affiliates or agents. The Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise. The liability of the Owner or a New Entity is in all cases limited to their interest in the Site or subdivided portion thereof at the time such liability is incurred and shall not extend to any other portion of the Site for which another party has assumed responsibility pursuant to Section 6.1 hereof. In the event that all or any portion of the Site is subjected to a condominium regime or a long term ground lease, the condominium association or the ground lessee, as applicable, shall be deemed to be the owner/New Entity of the affected portion of the Site.

6.7 Estoppels. Each Party agrees, from time to time, upon not less than twenty-one days’ prior written request from the other, to execute, acknowledge and deliver a statement in writing certifying (i) that this Agreement is unmodified and in full force and effect (or if there have been modifications, setting them forth in reasonable detail); (ii) that the party delivering such statement has no defenses, offsets or counterclaims against its obligations to perform its covenants hereunder (or if there are any of the foregoing, setting them forth in reasonable detail); (iii) that there are no uncured defaults of either party under this Agreement (or, if there are any defaults, setting them forth in reasonable detail); and (iv) any other information reasonably requested by the party seeking such statement. If the Party delivering an estoppel certificate is unable to verify compliance by the other Party with certain provisions hereof despite the use of due diligence, it shall so state with specificity in the estoppel certificate, and deliver an updated estoppel certificate as to such provisions as soon thereafter as practicable. Any such statement delivered pursuant to this Section 7.7 shall be in a form reasonably acceptable to, and may be relied upon by any, actual or prospective purchaser, tenant, mortgagee or other party having an interest in the Project. The Town Manager is hereby authorized to execute and deliver any such estoppel certificate on behalf of the Board of Selectmen.

6.8 Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, then the remaining terms, covenants, conditions and provisions of this Agreement and their application to other persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the Parties, and in the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the original
intention of the Parties. The Parties hereby consent to jurisdiction of the courts of the Commonwealth of Massachusetts sitting in the County of Norfolk.

6.9 Entire Agreement; Amendments. This Agreement sets forth the entire agreement of the Parties with respect to the subject matter hereof, and supersedes any prior agreements, discussions or understandings of the Parties and their respective agents and representatives. This Agreement may not be amended, altered or modified except by an instrument in writing and executed by the Owner or any New Entity and by a majority of the Board of Selectmen of the Town.

6.10 Severability. The invalidity of any provision of this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof. If any provision of this Agreement or its applicability to any person or circumstance shall be held invalid, the remainder thereof, or the application to other persons shall not be affected.

6.11 Time is of the Essence; Cooperation. Time shall be of the essence for this Agreement and, subject to economic conditions and approval of the District Bylaw by the Town, DHCD, and the Massachusetts Attorney General, the Owner shall diligently pursue the remaining permitting and development of Phase I. The Parties agree to work cooperatively, on a going-forward basis, to execute and deliver documents, and take such other actions, whether or not explicitly set forth herein, that may be necessary in connection with the design, permitting, and development of the Project, the Water Line, the Sewer Line or the implementation of the goals and objectives of this Agreement, including but not limited to the execution and delivery of utility easements in public right-of-ways to third parties, the negotiation, execution and delivery of utility easements with third parties, the modification of existing utility easements, MassDOT applications related to water and sewer services and transportation improvements, and other state and local instruments and documents. The Town shall also work cooperatively with the Owner in permitting matters related to the Project.

6.12 Counterparts; Signatures. This Agreement may be executed in several counterparts and by each Party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. It is agreed that electronic signatures shall constitute originals for all purposes.

6.13 Record Notice. A notice of this Agreement in a form reasonably acceptable to the Owner may be recorded with the Norfolk Registry of Deeds.

6.14 No Third-Party Beneficiaries. Notwithstanding anything to the contrary in this Agreement, the Parties do not intend for any third party to be benefitted hereby.

[Remainder of this page intentionally left blank. Signature page follows.]
EXECUTED under seal as of the date and year first above written,

TOWN OF WELLESLEY BOARD OF SELECTMEN
By: __________________________
Name: __________________________
Its: __________________________

JOHN HANCOCK LIFE INSURANCE COMPANY (U.S.A.)
By: __________________________
Name: __________________________
Its: __________________________

LIST OF EXHIBITS
Exhibit A – Site Depiction
Exhibit B – Phase I Conceptual Plan
Exhibit C – Stantec Memorandum
Exhibit D – Traffic Memorandum
Exhibit E – Environmental Table

Error! Unknown document property name.4818-2298-0226.20
6. **Special Town Meeting – Delanson Circle/148 Weston.**

Work continues on the negotiations and plans for the Delanson and 148 Weston Development Projects. The draft development agreements are again included for your review. The Town is still awaiting an update from Dan Hill who represents the College Heights neighbors. In addition to the Development Agreements, a draft-zoning proposal is included for your review. To accomplish the development densities, we are proposing to modify the language of the Residential Incentive Overlay, an existing overlay provision, and amend the zoning map to cover 112-148 Weston Road and Delanson Circle with the new district through a zoning map change.

**NO MOTIONS**
SECTION XIVF. RESIDENTIAL INCENTIVE OVERLAY (RIO)

A. Purpose: To provide a residential reuse incentive for a parcel or parcels greater than one acre and located in close proximity to the Town’s commercial districts and public transportation.

B. Applicability: The RIO shall be considered as overlaying other zoning districts.

C. Underlying Zoning Districts: The RIO confers additional development options to be employed at the discretion of the property owner. The RIO does not in any manner remove or alter the zoning rights permitted by the underlying zoning district. However, use of one or more of the RIO development options requires consistency with all RIO requirements.

D. Permitted Uses: Conventional multi-family dwelling units, assisted elderly living, independent elderly living, nursing home, and skilled nursing facilities.

E. Minimum Lot or Building Site Area: No building or group of buildings shall be constructed on a lot or development site containing less than 65,000 square feet. No building conversion shall be approved on a lot or development site containing less than 25,000 square feet.

F. Minimum Open Space: The property owner shall provide a minimum open space, as defined in Section IA, of 30 percent of the lot or development site area, one half of which shall enhance open space as defined in Section IX. However, the amount of open space required for conversion projects shall be determined by the Planning Board under the project approval/special permit paragraph below.

G. Floor Area Ratio: Building floor area devoted to residential uses, including conventional market-rate housing, assisted elderly living, independent elderly housing, nursing home and/or skilled nursing facilities shall not be subject to floor area ratio requirements notwithstanding other provisions of this Zoning Bylaw to the contrary.

H. Maximum Development Density: There shall be provided for each dwelling unit of assisted elderly living or independent elderly living a lot area of not less than fourteen hundred (1,400) square feet and the number of dwelling units on a lot or development site shall not exceed 150 units. There shall be provided for each dwelling unit of conventional multi-family housing a lot area of not less than eighteen hundred (1,800) square feet. A nursing home or skilled nursing facility on a lot or development site shall not exceed 250 beds.

I. Building Setbacks: Yard definitions shall be as specified in Section XIX Yard Regulations. RIO projects involving new construction in Industrial, Industrial A, and the Lower Falls Village Commercial District shall provide the following:
- Minimum Front Yard: 25 feet
- Minimum Side Yard Depth: 40 feet
- Minimum Year Yard Depth: 40 feet
RIO projects involving new construction in Single Family Residential Districts or General Residence Districts shall be required to meet the setbacks of the underlying zoning as specified in Section XIX Yard Regulations.

However, where the housing is not located in but abuts a residential zoning district, the setback shall be 60 feet and a buffer of natural material and/or an earthen berm shall be installed to provide screening on a year-round basis.

J. Building Height: Maximum building height as defined in Section XX for new construction shall be 4 stories and 45 feet for buildings used for assisted elderly housing, independent elderly housing, and conventional multifamily housing located in Industrial, Industrial A, and Lower Falls Village Commercial District; new construction shall be 36 feet for buildings located in Single Family Residential and General Residential Districts.

K. Signs for a residential complex shall comply with the sign requirements of the business district.

L. Off-Street Parking: Off-street parking shall be provided in accordance with Section XXI.

M. Building Conversion: An existing building may be converted to uses allowed in the RIO subject to the terms of a special permit granted by the Planning Board. In no instance shall the building be expanded to exceed the height limitations specified below or the current height of the building if said height is greater than 45 feet. There shall be no maximum residential density. However, if the building proposed for conversion presently does not conform to the requirements of the underlying zoning district the provisions of Section XVII shall apply to the conversion project. In this instance, application shall not be made to the Zoning Board of Appeals under Section XVII prior to the issuance of a special permit by the Planning Board under this Section.

N. Mixed Use Projects: Any combination of conventional housing types is permitted up to a maximum density of 24 units per acre. Further, up to 75 conventional units of any type of housing shall be permitted in conjunction with development of a facility providing at least 100 nursing home beds, 100 beds associated with a skilled nursing facility, or at least 80 assisted living or independent elderly housing units. A mix of residential units comprising independent elderly housing, assisted elderly living, skilled nursing facilities, nursing homes, and any type of conventional housing shall also be allowed, consistent with the dimensional regulations of the RIO.

In RIO projects that provide at least 100 elderly dwelling units of any type, including skilled nursing facilities, or at least 50 conventional housing units of any type, up to 10,000 sq. ft. of retail space in a structure or structures separate from the residential units or nursing facility shall be permitted. All such developments shall be consistent with the dimensional and parking district if applicable.

O. Project Approval/Special Permits: The provisions of Section XVIA shall apply in all respects to projects in the RIO. Application shall not be made under Section XVIA prior to the issuance of a special use permit by the Planning Board under this section. A special use permit shall be required from the Planning Board in conjunction with all projects employing RIO development options for building conversion or new construction and the
Planning Board may waive specific dimensional requirements in accordance with the following:

1. The Planning Board shall receive a report from the Design Review Board finding that the proposed project is consistent with the design criteria listed in Section XXII.

2. The proposed project shall provide and/or contribute toward pedestrian and bicycle amenities and shall, as applicable, accommodate pedestrian and bicycle circulation and safety in accordance with nationally recognized and accepted standards.

3. The proposed project shall provide and/or contribute toward the improvement of pedestrian public transportation and to the river, open space, public trails or other public amenities.

4. The proposed project shall provide and/or contribute toward the creation of a village center, town green, or mini-park within or adjacent to the RIO.
DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into as of this ___ day of 2019, by and between the Board of Selectmen (the “Board”) of the Town of Wellesley, Massachusetts (the “Town”), and Delanson Realty Partners, LLC as owner of the Property (as hereinafter defined) (together, with its/two their successors and assigns, the “Owner,” and together with the Board, the “Parties”).

The WHEREAS, the Owner is the owner of certain owns the parcels of land located on at 1-3, 2-4, 5-7, 6 and 8 Delanson Circle, and 12-14 and 16-18 Hollis Street and Linden Street known as: (the “Property”), and further described and identified in within the Town (such parcels collectively, as further described on Exhibit A, the “Property”).

The WHEREAS, the Owner has filed with the Town of Wellesley Zoning Board of Appeals (the “ZBA”) an application petition for development of the Property under G.L. c. 40B §§ 20 et seq. known as Case Number ZBA-2017-99 (the “40B Petition/Application”). The next session of the hearing under said Application has been 40B Petition has been continued by the Owner and the ZBA before the Zoning Board of Appeals until May—May 1, 2019 and will be further continued as provided herein.

WHEREAS, The Owner and the Board have determined that a less impactful an alternative development of the Property, as described in more detail herein (the “Revised Project”), would be more appropriate for the Property but would require an amendment of the zoning applicable to the Property.

WHEREAS, In lieu of the proposal contained in the 40B Petition the Owner has proposed to construct this “Revised Project” is, a multifamily residential condominium development at the Site Property consisting of a single new building containing 35 dwelling units (not to exceed 75 bedrooms) and the renovation, but not expansion, of four existing dwelling units at 12-14 and 16-18 Hollis Street, the (collectively, the “Revised Project”).

WHEREAS, the Parties agree wish This Agreement is entered into by the Parties in an effort to establish a framework to facilitate the proposed development of the Property for the Revised Project as more particularly described and depicted on a certain plan of land entitled “Delanson Project Proposed Project Change January 15, 2019”, containing sheets and attached hereto and incorporated herein as Exhibit B (the “Delanson Development Plan”) and described in a certain Project Narrative by Embarc Design attached hereto and incorporated herein as Exhibit C (the “Project Narrative”).

The NOW THEREFORE, the development of the Revised Project shall be subject to the terms and restrictions set forth in this Agreement. The and the Owner shall impose such restrictions and undertake and complete such obligations, as set forth in this Agreement as follows:-
The Parties wish to enter into this Agreement to memorialize their mutual understandings, commitments, and agreements regarding the use of the Property.

1. PROPOSED ZONING AMENDMENTS

1.1 The Board agrees to present a Zoning Bylaw amendment to the Town Planning Board and to a Special Town Meeting, to be called no later than June 1, 2019, that includes the warrant articles listed in the form substantially proposed as set forth in Exhibit D (the “Warrant Articles Bylaw Amendments”) which would allow the Revised Project to be developed under and subject to the processes and limitations contained within Zoning By-Law Section 16A-16F and to support a favorable report on the Warrant Articles Bylaw Amendments by the Town Planning Board and the adoption of the Warrant Articles thereof by Town Meeting.

2. 40B PETITION

2.1 Upon the Planning Board’s favorable recommendation on the Warrant Articles the Owner will seek a so-called “standstill” agreement with the Zoning Board of Appeals/ZBA, which shall extend, pursuant to 760 CMR 56.05 (3), the time for conducting the public hearing on the 40B Petition Application, making a decision on that Application Petition, and filing that decision with the Town Clerk for a sufficient time so that the ZBA may suspend its review of the 40B Petition while the Owner pursues all local permits approvals for the Revised Project.

2.2 Upon the Owner’s receipt of its first building permit for the Revised Project the Owner shall withdraw the 40B Petition with prejudice.

3. REVISED PROJECT

3.1 Forthwith upon adoption of the Zoning Bylaw amendment Warrant Articles by the Town Meeting and their approval by the Attorney General, and the running of any applicable appeal period without appeal the Owner shall apply for such special permits and site plan approvals and other required local approvals from the Zoning Board of Appeals and the Planning Board the Town as may be required under the Warrant Articles by the Zoning Bylaw Amendment (the “Revised Project Permits”).

3.2.2 The Owner’s application for will apply for the Revised Project Permits for the Revised Project shall adhere to accordance with the Delanson Development Plan Exhibit B and the Project Narrative Exhibit C. There shall The number of units shall not exceed 35. The total number of bedrooms in the 35 new units shall not exceed 75 bedrooms. The Owner acknowledges that the special permit and site plan approval for the Revised Project may include conditions typical for such projects in Wellesley including without limitation conditions related to drainage and utility design, traffic impacts (and offsite mitigation to mitigate traffic impacts, including, but not limited to a crosswalk on Linden Street), landscaping, sequencing of construction, a construction management plan, and post-construction reviews.

3.3.2.3 In addition to the 35 new units discussed in Section 3.2 above, the Owner shall renovate, but not expand, the existing four (4) dwelling units each containing two (2) bedrooms located at 12-14 and 16-18 Hollis Street. The Owner shall subject all four (4)
renovated units to a permanent deed restriction or Regulatory Agreement. The deed restrictions or Regulatory Agreement shall be in a form approved by Town Counsel, shall be recorded in the Norfolk County Registry of Deeds and shall be sufficient to make all four (4) renovated units at 12-14 and 16-18 Hollis Street (the “Affordable Units”) eligible for inclusion on the Department of Housing and Community Development’s Subsidized Housing Inventory (the “SHI”) as provided for in 760 CMR 56.02. The finishes in the Affordable Units shall be similar in quality to the 35 new units described above, and shall subject all four (4) renovated units to a deed restriction or Regulatory Agreement. The deed restrictions or Regulatory Agreement shall be in a form approved by Town Counsel, shall be recorded in the Norfolk County Registry of Deeds and shall be sufficient to make all four (4) renovated units at 12-18 Hollis Street (the “Affordable Units”) eligible for inclusion on the Department of Housing and Community Development’s Subsidized Housing Inventory (the “SHI”) as provided for in 760 CMR 56.02. The Affordable Units will be declared as condominium units within the condominium created for the new thirty-five (35) units, and the Affordable Units will have access to common areas and amenities of the Condominium in accordance with the condominium Master Deed and the rules and regulations of the condominium, and the Affordable Units will have as appurtenant percentages of interest in the condominium established in accordance with G.L. c. 183A. The Affordable Units may be either sold to eligible individuals or held as rental units by the Owner or a public entity. The Revised Project Permits may provide that not more than 6 Certificates of Occupancy may be issued for any new construction units within the Revised Project unless Certificates of Occupancy have been issued for the 4 Affordable Units at 12-18 Hollis Street.

3.42.4 Construction of the Revised Project shall be managed in accordance with the Construction Management Plan dated _____ and attached hereto as Exhibit E. All construction related traffic shall follow the trucking routes detailed in said Construction Management Plan.

3.52.5 In the event the Warrant Articles Zoning Bylaw Amendment are not adopted by a-Town Meeting acting on or before July 31, 2019, then unless extended by mutual agreement this Agreement, unless extended by in writing by the Parties, shall terminate and the Parties shall have no further obligations to each other hereunder.

3.62.6 The Board and the Owner recognize that the Revised Project may undergo revisions and modifications in the usual course of the special permit and site plan local approval processes. This Agreement shall remain in full force and effect, so long as provided that such revisions and modifications shall be satisfactory to the permit granting authority applicable regulatory board and shall not involve result in an increase in the number of dwelling units or bedrooms, or in the size or height of the buildings or any conditions specifically referred to or adopted in this Agreement.

4.3. TRAFFIC IMPROVEMENTS AND MITIGATION

4.3.1.1 The final site plans submitted in connection with the Revised Project shall be consistent with the Delanson Development Plan Exhibit B and the include the following improvements (the “Roadway Improvements”) to be undertaken by the Owner prior to the issuance of the first Certificate of Occupancy of the Revised Project:

(a) Crosswalk across- Linden Street (to be located by the Planning Board):
(b) The width of the pavement on the way of Hollis Street shall will be widened on the extended on the Owner's (west) side of Hollis Street, for the full length of the adjacent to the Property, in order to provide a paved travel way of not less than 18 feet. The, and the Owner will shall also install a sidewalk and curbing to Planning Board standards, located adjacent to its and along the full length of the property on Hollis Street a sidewalk and curbing to the standards of public ways in Wellesley.

(c) Contribution of $—— to the Town for improvements to Hollis Street intended to include, at the option of the Board, with the consent of all property owners who abut Hollis Street: 1) the Town repaving of the private way the full length of Hollis Street located to the west of Linden Street, 2) constructing a any sidewalk and installing curbing, or other improvements, on the east side of Hollis Street; 3) installing or improvements improving to street lighting or and utilities, all in the discretion of the Town; provided that the work payment under this paragraph shall only be due performed at the time of on the later of (i) the Town's Board's written request under this Paragraph or and (ii) issuance of the first Certificate of Occupancy for the Revised Project.

5.4. MISCELLANEOUS

5.14.1 Forbearance from Suit

The Parties shall forego any actions at law or equity attempting to contest the validity or prevent the enforceability of any provision(s) of this Agreement. Such forbearance shall not preclude any Party from bringing any action for breach of contract on the part of the other Party or acts of intentional misconduct with respect to matters contemplated herein.

5.24.2 Cooperation

The Parties agree to work cooperatively, on a going-forward basis, to execute and deliver documents, and take such other actions, whether or not explicitly set forth herein, that may be necessary in connection with implementation of the goals and objectives of this Agreement.

5.34.3 Successors and Assigns

The Owner may transfer all its rights and obligations under this Agreement to an affiliated entity (a "New Entity") subject to the terms of this Agreement. The Owner and all New Entities, whether affiliated or unaffiliated, shall be jointly and severally liable to the Town for all obligations under this Agreement.

5.44.4 Notices

Notices, when required hereunder, shall be deemed sufficient if sent registered mail to the Parties at the following addresses:
Town: Board of Selectmen
Town of Wellesley
Wellesley Town Hall
525 Washington Street
Wellesley, MA 02482

with a copy to: Thomas J. Harrington, Town Counsel
Miyares and Harrington LLP
40 Grove Street Suite 190
Wellesley, MA 02482
tom@miyares-harrington.com

Owner: Delanson Realty Partners
Aura Properties, LLC
49 Coolidge Street
Brookline, MA 02446

with a copy to: Alan J. Schlesinger
Schlesinger and Buchbinder, LLP
1200 Walnut Street
Newton, MA 02461

5.54.5 Default; Opportunity to Cure

Failure by either Party to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the defaulting Party fails to commence to cure, correct or remedy such failure within fifteen (15) days of receipt of written notice of such failure from the other Party and thereafter fails to complete such cure, correction, or remedy within sixty-thirty (6030) days of the receipt of such written notice, or, with respect to defaults that cannot reasonably be cured, corrected or remedied within such 6030-day period, within such additional period of time as is reasonably required to remedy such default, provided the defaulting Party exercises due diligence in the remedying of such default.

5.64.6 Limited Undertaking

Nothing in this Agreement shall be construed as an undertaking by the Owner to construct or complete the Revised Project, or any portion thereof, and the obligations hereunder being limited to compliance with the provisions hereof to the extent the Revised Project, or any portion thereof, is commenced, constructed or completed.

5.74.7 Limitations on Liability
The obligations of the Owner or any New Entity do not constitute personal obligations of their members, trustees, partners, directors, officers or shareholders, or any direct or indirect constituent entity or any of their affiliates or agents. The Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise.

5.84.8 Governing Law

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, then the remaining terms, covenants, conditions and provisions of this Agreement and their application to other persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the Parties, and in the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the objectives of the Parties. The Parties hereby consent to jurisdiction of the courts of the Commonwealth of Massachusetts sitting in the County of Norfolk.

5.94.9 Entire Agreement; Amendments

This Agreement sets forth the entire agreement of the Parties with respect to the subject matter hereof, and supersedes any prior agreements, discussions or understandings of the Parties and their respective agents and representatives. Amendments to the terms of this Agreement may be agreed to on behalf of the Town by its Board of Selectmen. No representation, promise or other agreement with respect to the subject matter hereof shall be binding on any Party unless it is expressly set forth herein. The Parties expressly acknowledge and agree that this Agreement does not and shall not apply to any development by Owner, or any of its affiliates, other than the Project.

5.104.10 Interpretation

Capitalized terms used but not defined herein shall have the meanings assigned to them under the Town of Wellesley Zoning By-Laws.

5.114.11 Counterparts; Signatures

This Agreement may be executed in several counterparts and by each Party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. It is agreed that electronic signatures shall constitute originals for all purposes.

5.124.12 No Third-Party Beneficiaries

Notwithstanding anything to the contrary in this Agreement, the Parties do not intend for any third party to be benefitted hereby, and no third party shall have any right to enforce any obligations or exercise any rights hereunder.
5.134.13 Headings.

Headings are inserted for convenience only and do not form part of this Agreement.

[Signatures on following page(s)]
EXECUTED under seal as of the date and year first above written,

DELANSON REALTY PARTNERS LLC

By: __________________________
   Manager

TOWN OF WELLESLEY BOARD OF SELECTMEN

By: __________________________

By: __________________________

By: __________________________

By: __________________________

By: __________________________

LIST OF EXHIBITS

Exhibit A – Land Description
Exhibit B – Revised Plan
Exhibit C – Project Narrative
Exhibit D – Warrant Articles
Exhibit E – Construction Management Plan
EXHIBIT A

Land Description
EXHIBIT B

Revised Plan
EXHIBIT C

Project Narrative
Delanson Circle
Wellesley, MA 02482

February 22, 2019

PROJECT NARRATIVE

Located in the heart of Wellesley at the intersection of Linden and Hollis Streets, directly across the street from the Wellesley Square MBTA Commuter Rail station and right down the block from the vibrant Wellesley and Linden Squares, the proposed building seeks to take advantage of an underutilized site and create a transit-oriented residential development with easy access to the heart of downtown Boston. The site consists of vacating dead-end Delanson Circle and combining five single-family residential plots into a new property of approximately 61,774 SF and an additional 20,000 SF at 12-18 Hollis Street for a site total of 81,774 SF.

The new U-shaped building will be 3-stories (36'-3" tall measured from average grade) for the main portion with a small 1 to 2 story stepped wing closest to Hollis Street. The roofs of the 1 and 2 story portion of the building will have a “green roof” design with no roof decks. Private decks at the roof of the 3rd floor would be designed by individual use of the units that are along the Hollis and Linden Street sides. Fully enclosed ground floor parking provides 60 interior spaces accessed off of Linden Street with 10 exterior spaces for use by visitors and drop offs for a total of 70 parking spaces. 35 residential units are located within the three residential stories. At the center of the project will be a courtyard and Community Room on the first floor with direct access from corner Linden and Hollis Street.

At Delanson Circle, the ground floor (at grade with Linden Street) contains the lower residential lobby, leasing office, fitness area for residents, utilities and bike storage along with the parking for the building. A stair directly adjacent to the residential lobby leads from Hollis Street up into the courtyard. The second floor (at grade with the northeast corner on Hollis Street) is comprised of the upper residential lobby, lounge, and community room while the remaining building area will be dedicated to residential units. The courtyard is designed in a way to maximize functionality and can accommodate private space for the residents use. There will also be a fire lane off of Hollis Street with direct access to the courtyard in the case of an emergency.

The exterior of the building has been designed in a way to break down its scale, emphasizing a more horizontal nature through a series of horizontal datums, bays, setbacks and material changes. The ground floor will be combination of light-toned masonry and natural woods with glazed openings for the lobby and leasing offices, while the upper floors will contain materials more native to the surrounding neighborhood, using varying cladding textures but maintaining a
complimentary color palette. Windows on the upper floors will be broken down with muntins to give a more traditional feel while also providing plentiful natural light for the residents. Given the current steep grading across the site (the southeast corner of Linden and Hollis Streets is approximately 30' lower than the opposite corner to the northwest), the three-story building will be nestled into the landscape using a series of landscaped terraces at the rear to minimize any potential impact on neighboring properties. The cornice of the new building will be lower than a majority of the surrounding homes.

Our lighting engineer will work closely with the development team and the Town of Wellesley to specify and locate light fixtures to ensure the proposed redevelopment meets the town’s ordinances. Furthermore, all fixtures for the exterior use will be designed to go on at dusk and off and dawn (not implementing the motion detection light fixtures) and be dark sky compliant. The low-level light fixtures at the visitor parking spaces abutting 12-14 Hollis will be designed to just provide lighting of the striping of the parking spaces and not utilize pole lighting for this area. Photometric plans and fixtures will be provided during the design review process for review.

All units throughout the building will be designed to provide layouts that promote open kitchen/living/dining spaces, with comfortably sized bedrooms, bathrooms, laundry, storage areas, juliette balconies and terraces (where possible). There will be a maximum of (7) private roof decks (no more than 1,500 SF total for all decks) along the public facing side of the building (facing Hollis and Linden) for the 3rd floor units in addition to balconies for the 1st and 2nd floor on the Linden and Hollis Street facades. Each unit will have individual washer/dryers along with individual heating and cooling systems. The design provides for a range of unit sizes and layouts, coupled with the affordable component that will provide much-needed quality housing that fits well within the immediate context and surrounding neighborhoods of Wellesley.
EXHIBIT D

Zoning Bylaw Amendment

Deleted: Warrant Articles
SECTION XIVF-1 RESIDENTIAL INCENTIVE OVERLAY (RIO)

A. Purpose: To provide a residential reuse incentive for a parcel or parcels over one acre that are in close proximity to the Town’s retail districts and public transportation.

B. Applicability: The RIO shall be considered as overlaying other zoning districts.

C. Underlying Zoning Districts: The RIO confers additional development options to be employed at the discretion of the property owner. The RIO does not in any manner remove or alter the zoning rights permitted by the underlying zoning district. However, use of one or more of the RIO development options requires consistency with all RIO requirements.

D. Permitted Uses: Conventional multi-family dwelling units, assisted elderly living, independent elderly housing, nursing homes and skilled nursing facilities.

E. Minimum Lot or Building Site Area: No building or group of buildings shall be constructed on a lot or development site containing less than 1.5 acres. No building conversion shall be approved on a lot or development site containing less than 25,000 square feet.

F. Minimum Open Space: There shall be provided a minimum open space as defined in Section 1A. of 30 percent of the lot or development site area one half of which shall enhanced open space as defined in Section IX., provided, however, that the amount of open space required for conversion projects shall be determined by the Planning Board under the project approval/special permit paragraph below.

G. Floor Area Ratio: Building floor area devoted to residential uses including conventional market-rate housing, assisted elderly living, independent elderly housing, nursing home and/or skilled nursing facilities shall not be subject to floor area ratio requirements notwithstanding other provisions of this Zoning Bylaw to the contrary.

H. Maximum Development Density: There shall be provided for each dwelling unit of assisted elderly living or independent elderly living a lot area of not less than fourteen hundred (1,400) square feet and the number of dwelling units on a lot or development site shall not exceed 150 units. There shall be provided for each dwelling unit of conventional multi-family housing a lot area of not less than eighteen hundred (1,800) square feet. A nursing home or skilled nursing facility on a lot or development site shall not exceed 250 beds.

I. Building Setbacks: Yard definitions shall be as specified in Section XIX. RIO projects involving new construction shall provide the following:

| Minimum Front Yard Depth       | 25 feet |
| Minimum Side Yard Depth        | 40 feet |
| Minimum Rear Yard Depth        | 40 feet |

However, where the housing abuts a residential zoning district, the setback shall be 60 feet and a buffer of natural material and/or an earthen berm shall be installed to provide screening on a year-round basis.
J. Building Height: Maximum building height as defined in Section XX for new construction shall be 4 stories and 45 feet for buildings used for assisted elderly living, independent elderly housing, and conventional multi-family housing. The maximum building height for nursing homes and skilled nursing facilities shall be three stories and 36 feet. See Building Conversion paragraph below for height restrictions for conversion of existing buildings to these uses.

K. Signs: Signs shall comply with the sign requirements of the underlying district.

L. Off-Street Parking: Off-street parking shall be provided in accordance with Section XXII.

M. Building Conversion: An existing building may be converted to uses allowed in the RIO subject to the terms of a special permit granted by the Planning Board. In no instance shall the building be expanded to exceed the height limitations specified below or the current height of the building if said height is greater than 45 feet. There shall be no maximum residential density. However, if the building proposed for conversion presently does not conform to the requirements of the underlying zoning district the provisions of Section XVII. shall apply to the conversion project. In this instance application shall not be made to the Zoning Board of Appeals under Section XVII. prior to the issuance of a special permit by the Planning Board under this Section.

N. Mixed Use Projects: Any combination of conventional housing types is permitted up to a maximum density of 24 units per acre. Further, up to 75 conventional units of any type of housing shall be permitted in conjunction with development of a facility providing at least 100 nursing home beds, 100 beds associated with a skilled nursing facility, or at least 80 assisted living or independent elderly housing units. A mix of residential units comprising independent elderly housing, assisted elderly living, skilled nursing, nursing homes, and any type of conventional housing shall also be allowed, consistent with the dimensional regulations of the RIO.

In RIO projects that provide at least 100 elderly dwelling units of any type, including skilled nursing facilities, or at least 50 conventional housing units of any type, up to 10,000 sq. ft. of retail space in a structure or structures separate from the residential units or nursing facility shall be permitted. All such developments shall be consistent with the dimensional and parking requirements for retail business in the Lower Falls Commercial District.

O. Project Approval/Special Permits: The provisions of Section XVIA. shall apply in all respects to projects in the RIO. Application shall not be made under Section XVIA. prior to the issuance of a special use permit by the Planning Board under this section. A special use permit shall be required from the Planning Board in conjunction with all projects employing RIO development options for building conversion or new construction and the Planning Board may waive specific dimensional requirements in accordance with the following:

1. A report shall have been received from the Design Review Board finding that the proposed project is consistent with the design criteria listed in Section XXII.; and
2. The proposed project shall provide and/or contribute toward pedestrian and bicycle amenities and shall, as applicable, accommodate pedestrian and bicycle circulation and safety in accordance with nationally recognized and accepted standards.
EXHIBIT E

Construction Management Plan
DEVELOPMENT AGREEMENT

This Development Agreement (this “Agreement”) is entered into as of this ___ day of 2019, by and between the Board of Selectmen (the “Board”) of the Town of Wellesley, Massachusetts (the “Town”), and Wellesley Park, LLC as owner and contract purchaser of the Property (as hereinafter defined) (together, with its/their successors and assigns, the “Owner,” and together with the Board, the “Parties”).

WHEREAS, the Owner owns or is the contract purchaser of is the owner or contract purchaser of certain parcels of land located at 148 Weston Road and 140 Weston Road, within the Town (the “Property”), and further described and identified in (such parcels collectively, as further described on Exhibit A, the “Property”). The property at 140 Weston Road is to be conveyed to the Owner subject to a life estate (the “Life Estate” in favor of the current owner with respect to a house at 140 Weston Road (the “140 House”).

WHEREAS, the Owner has filed with the Town of Wellesley Zoning Board of Appeals (the “ZBA”) an application a petition for development of the Property under G.L. c. 40B §§ 20 et seq. known as Case Number ZBA-2018-24 (the “40B ApplicationPetition”). The next session of the hearing under said application has been 40B Petition has been continued by the Owner and the ZBA before the Zoning Board of Appeals until May 1, 2019 and will be further continued as provided herein.

WHEREAS, the Owner and the Board have determined that a less impactful an alternative development of the Property, as described in more detail herein (the “Revised Project”), would be more appropriate for the Property but would require an amendment of the zoning applicable to the Property.

WHEREAS, this Revised Project In lieu of the proposal contained in the 40B Petition the Owner has proposed to construct a multifamily residential condominium development at the Property Site consisting of a single new building containing 25 dwelling units (not to exceed ___ bedrooms) and the renovation of one existing dwelling units at 140 Weston Road (collectively, the “Revised Project”).

WHEREAS, the Parties wish to This Agreement is entered into by the Parties in an effort to establish a framework to facilitate the proposed development of the Property for the Revised Project as more particularly described and depicted on a certain plan of land entitled “148 Weston Road Project Proposed Project Change February 22, 2019”, containing 9 sheets and attached hereto and incorporated herein as Exhibit B (the “148 Weston Development Plan”) and described in a certain Project Narrative by Embarc Design attached hereto and incorporated herein as Exhibit C (the “Project Narrative”).

NOW THEREFORE, the development of the Revised Project shall be subject to the terms and restrictions set forth in this Agreement and the. The Owner shall impose such restrictions and undertake and complete such obligations, as set forth in this Agreement as follows:

The Parties wish to enter into this Agreement to memorialize their mutual understandings, commitments, and agreements regarding the use of the Property.
1. PROPOSED ZONING AMENDMENTS

1.1 The Board agrees to propose a Zoning Bylaw amendment present to the Town Planning Board and to a Special Town Meeting to be called no later than June 1, 2019, in the form substantially as set forth in that includes the warrant articles listed on Exhibit D (the “Bylaw Amendments Warrant Articles”) which would allow the Revised Project to be developed under and subject to the processes and limitations contained within Zoning By-Law Section 16F:16A and to support a favorable report on the Bylaw Amendments Warrant Articles by the Town Planning Board and the adoption thereof of the Warrant Articles by Town Meeting.

2. 40B PETITION

2.1 Upon the Planning Board’s favorable recommendation on the Warrant Articles the Owner will seek a so-called “standstill” agreement with the Zoning Board of Appeals ZBA, which shall extend, pursuant to 760 CMR 56.05 (3), the time for conducting the public hearing on the 40B Application Petition, making a decision on that Application Petition, and filing that decision with the Town Clerk for a sufficient time so that the ZBA may suspend its review of the 40B Application Petition while the Owner pursues all is pursuing local approvals permits for the Revised Project.

2.2 Upon the Owner’s receipt of its first building permit for the Revised Project the Owner shall simultaneously withdraw the 40B Petition with prejudice.

3. REVISED PROJECT

3.1 Forthwith upon adoption of the Zoning Bylaw Amendment Warrant Articles by the Town Meeting and their approval by the Attorney General and the running of any applicable appeal period without appeal the Owner will apply for such special permits and site plan approvals and other required local approvals from the Town as is Zoning Board of Appeals and the Planning Board as may be required under the Zoning Bylaw Amendment Warrant Articles (the “Revised Project Permits”).

3.2 The Owner’s application for will apply for the Revised Project shall adhere to the Permits for the Revised Project in accordance with the 148 Weston Development Plan Exhibit B and the Project Narrative Exhibit C. -Except as specifically provided for in Section 3.3 below, the number of The units shall not exceed total number of bedrooms in the 25 and the number of bedrooms shall not exceed new units shall not exceed 58-bedrooms. The Owner acknowledges that the special permit and site plan approval for the Revised Project may include conditions typical for such projects in Wellesley including without limitation conditions related relative to drainage and utility design, traffic impacts and offsite mitigation to mitigate traffic impacts, including but not limited to sidewalks, landscaping, sequencing of construction, a construction management plan, and post-construction reviews.

3.3 In addition to the 25 new units discussed in Section 3.2, upon termination of the Life Estate held by the current occupant of 140 Weston Road, the Owner will renovate the existing single-family home located at 140 Weston Road House and subject this the 140 Househouse to a deed restriction or Regulatory Agreement. in a form approved by Town Counsel which shall be recorded in the Norfolk County Registry of Deeds and which shall be
sufficient to make the 140 Weston Road House eligible for inclusion on the Department of Housing and Community Development’s Subsidized Housing Inventory (the “SHI”) as provided for in 760 CMR 56.02, or any successor substantially similar measurement of the creation of an “affordable” housing unit. The finish of the renovated house shall be similar in quality to those 25 new units constructed as provided for above.

3.4 Construction of the Revised Project shall be managed in accordance with the Construction Management Plan dated February 8, 2019 and attached hereto as Exhibit E. All construction related traffic shall follow the trucking routes detailed in said Construction Management Plan.

3.5 In the event the Zoning Bylaw Amendment is not adopted by Town Meeting acting on or before July 31, 2019, then this Agreement, then unless extended in writing by the Parties, by mutual agreement this Agreement shall terminate and the Parties shall have no further obligations to each other hereunder.

3.6 The Board and the Owner recognize that the Revised Project may undergo revisions and modifications in the usual course of the local special permit and site plan approval process. This Agreement shall remain in full force and effect, so long as provided that such revisions and modifications shall be satisfactory to the applicable regulatory board granting authority and shall not result in an increase in the number of dwelling units or bedrooms, or in the size or height of the buildings or any conditions specifically referred to or adopted in this Agreement.

4. TRAFFIC IMPROVEMENTS AND MITIGATION

4.1 The final site plans submitted in connection with the Revised Project shall be consistent with the 148 Weston Development Plan Exhibit B and the include the following improvements (the “Roadway Improvements”) to be undertaken by the Owner prior to the issuance of the first Certificate of Occupancy of the Revised Project:

(a) Construction of a 5’ wide concrete sidewalk and reinstallation of vertical granite curbing along the street frontage of the Property;

(b) Installation of R1-1 Stop Sign and pavement markings at the entry driveway;

(c) Contribution of $____ to the Town for installation of 260′ +/- bituminous concrete sidewalk on the southwest side of Weston Road to connect the Property to the existing asphalt sidewalk with meets the crosswalk at the Linden Street intersection

5. MISCELLANEOUS

5.1 Forbearance from Suit

The Parties shall forego any actions at law or equity attempting to contest the validity or prevent the enforceability of any provision(s) of this Agreement. Such forbearance shall not
preclude any Party from bringing any action for breach of contract on the part of the other Party or acts of intentional misconduct with respect to matters contemplated herein.

5.2 Cooperation

The Parties agree to work cooperatively, on a going-forward basis, to execute and deliver documents, and take such other actions, whether or not explicitly set forth herein, that may be necessary in connection with implementation of the goals and objectives of this Agreement.

5.3 Successors and Assigns

The Owner may transfer all its rights and obligations under this Agreement to an affiliated entity (a “New Entity”) subject to the terms of this Agreement. The Owner and all New Entities, whether affiliated or unaffiliated, shall be jointly and severally liable to the Town for all obligations under this Agreement.

5.4 Notices

Notices, when required hereunder, shall be deemed sufficient if sent registered mail to the Parties at the following addresses:

Town: Board of Selectmen
      Town of Wellesley
      Wellesley Town Hall
      525 Washington Street
      Wellesley, MA 02482

with a copy to: Thomas J. Harrington, Town Counsel
                Miyares and Harrington LLP
                40 Grove Street Suite 190
                Wellesley, MA 02482
                tom@miyares-harrington.com

Owner: Wellesley Park, LLC
       49 Coolidge Street
       Brookline, MA 02446

with a copy to: Alan J. Schlesinger
                Schlesinger and Buchbinder, LLP
                1200 Walnut Street
                Newton, MA 02461
5.5 Default; Opportunity to Cure

Failure by either Party to perform any term or provision of this Agreement shall not constitute a default under this Agreement unless and until the defaulting Party fails to commence to cure, correct or remedy such failure within fifteen (15) days of receipt of written notice of such failure from the other Party and thereafter fails to complete such cure, correction, or remedy within thirty-sixty (360) days of the receipt of such written notice, or, with respect to defaults that cannot reasonably be cured, corrected or remedied within such 360-day period, within such additional period of time as is reasonably required to remedy such default, provided the defaulting Party exercises due diligence in the remediating of such default.

5.6 Limited Undertaking

Nothing in this Agreement shall be construed as an undertaking by the Owner to construct or complete the Revised Project, or any portion thereof, and the obligations hereunder being limited to compliance with the provisions hereof to the extent the Revised Project, or any portion thereof, is commenced, constructed or completed.

5.7 Limitations on Liability

The obligations of the Owner or any New Entity do not constitute personal obligations of their members, trustees, partners, directors, officers or shareholders, or any direct or indirect constituent entity or any of their affiliates or agents. The Town shall not seek recourse against any of the foregoing or any of their personal assets for satisfaction of any liability with respect to this Agreement or otherwise.

5.8 Governing Law

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, then the remaining terms, covenants, conditions and provisions of this Agreement and their application to other persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the Parties, and in the place of such invalid or unenforceable provision, there shall be substituted a like, but valid and enforceable provision which comports to the findings of the aforesaid court and most nearly accomplishes the objectives of the Parties. The Parties hereby consent to jurisdiction of the courts of the Commonwealth of Massachusetts sitting in the County of Norfolk.

5.9 Entire Agreement; Amendments

This Agreement sets forth the entire agreement of the Parties with respect to the subject matter hereof, and supersedes any prior agreements, discussions or understandings of the Parties and their respective agents and representatives. Amendments to the terms of this Agreement may be agreed to on behalf of the Town by its Board of Selectmen. No representation, promise or other agreement with respect to the subject matter hereof shall be binding on any Party unless it is expressly set forth herein. The Parties expressly acknowledge and agree that this Agreement
does not and shall not apply to any development by Owner, or any of its affiliates, other than the Project.

5.10 Interpretation

Capitalized terms used but not defined herein shall have the meanings assigned to them under the Town of Wellesley Zoning Bylaws By-Law.

5.11 Counterparts; Signatures

This Agreement may be executed in several counterparts and by each Party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument. It is agreed that electronic signatures shall constitute originals for all purposes.

5.12 No Third-Party Beneficiaries

Notwithstanding anything to the contrary in this Agreement, the Parties do not intend for any third party to be benefited hereby, and no third party shall have any right to enforce any obligations or exercise any rights hereunder.

5.13 Headings.

Headings are inserted for convenience only and do not form part of this Agreement.

[Signatures on following page(s)]
EXECUTED under seal as of the date and year first above written,

WELLESLEY PARK LLC

By: __________________________
   Manager

TOWN OF WELLESLEY BOARD OF SELECTMEN

By: __________________________

By: __________________________

By: __________________________

By: __________________________

List of Exhibits

Exhibit A – Land Description
Exhibit B – Revised Plan
Exhibit C – Project Narrative
Exhibit D – Warrant Articles
Exhibit E – Construction Management Plan
EXHIBIT A

Land Description
EXHIBIT B

Revised Plan
Located near the center of Wellesley on Weston Road, the proposed building seeks to take advantage of an underutilized site and create a transit-oriented residential development with easy access to the heart of downtown Boston. The site is a short four tenths of a mile walk from the Wellesley Square MBTA Commuter Rail station and right down the block from the vibrant Wellesley and Linden Squares, the site consists of a single-family house on 148 Weston Road that opens up to a 35,967 SF site plus an approximately 10,445 SF from the rear portion of 140 Weston Road, for a total site of 46,412 sf.

The new T-shaped building will be three-stories residential over garage (approximately 36'-0" tall above average grade) and utilizes the sloping site to provide about 49 below grade parking spaces with access off Weston Road and 6 visitor and 1 delivery space off the driveway access to the main building for a total of 56 parking spaces. There are 25 residential units spread over three floors above. At the rear of the project will be a publicly-accessible courtyard and amenity space on the ground floor that has a direct walkway to the street. The courtyard is designed to maximize functionality and can accommodate public access as well as private space for resident use.

A fire lane has been provided to meet required maximum access lengths around the perimeter of the building.

The exterior of the building has been designed in a way to play off of architectural elements found throughout the neighboring homes. With the implementation of sloped roofs elements, articulated bays and a handful of wood clapboard siding and trim details will further work to breakdown the scale of the proposed project. Windows throughout will be designed with muntins to give a more traditional feel while also providing plentiful natural light for the residents.

All units throughout the building will be designed to provide layouts that promote open kitchen/living/dining spaces, with comfortably sized bedrooms, bathrooms, laundry, storage areas, juliette balconies and decks not more than 6' deep. There will be private decks for a few units on the roof that are not visible from Weston Road. Over the parking area there will be private patios for small portions that extend beyond the building footprint at the garage below. Each unit will have individual washer/dryers along with individual heating and cooling systems. The design provides for a range of unit sizes and layouts, coupled with the affordable component that will provide much needed quality housing that fits well within the immediate context and surrounding neighborhoods of Wellesley.
EXHIBIT D

Zoning Bylaw Amendment

Deleted: Warrant Articles
SECTION XIVF-1 RESIDENTIAL INCENTIVE OVERLAY (RIO)

A. Purpose: To provide a residential reuse incentive for a parcel or parcels over one acre that are in close proximity to the Town’s retail districts and public transportation.

B. Applicability: The RIO shall be considered as overlaying other zoning districts.

C. Underlying Zoning Districts: The RIO confers additional development options to be employed at the discretion of the property owner. The RIO does not in any manner remove or alter the zoning rights permitted by the underlying zoning district. However, use of one or more of the RIO development options requires consistency with all RIO requirements.

D. Permitted Uses: Conventional multi-family dwelling units, assisted elderly living, independent elderly housing, nursing homes and skilled nursing facilities.

E. Minimum Lot or Building Site Area: No building or group of buildings shall be constructed on a lot or development site containing less than 1.5 acres. No building conversion shall be approved on a lot or development site containing less than 25,000 square feet.

F. Minimum Open Space: There shall be provided a minimum open space as defined in Section IA of 30 percent of the lot or development site area one half of which shall be enhanced open space as defined in Section IX., provided, however, that the amount of open space required for conversion projects shall be determined by the Planning Board under the project approval/special permit paragraph below.

G. Floor Area Ratio: Building floor area devoted to residential uses including conventional market-rate housing, assisted elderly living, independent elderly housing, nursing home and/or skilled nursing facilities shall not be subject to floor area ratio requirements notwithstanding other provisions of this Zoning Bylaw to the contrary.

H. Maximum Development Density: There shall be provided for each dwelling unit of assisted elderly living or independent elderly living a lot area of not less than fourteen hundred (1,400) square feet and the number of dwelling units on a lot or development site shall not exceed 150 units. There shall be provided for each dwelling unit of conventional multi-family housing a lot area of not less than eighteen hundred (1,800) square feet. A nursing home or skilled nursing facility on a lot or development site shall not exceed 250 beds.

I. Building Setbacks: Yard definitions shall be as specified in Section XIX. RIO projects involving new construction shall provide the following:

- Minimum Front Yard Depth: 25 feet
- Minimum Side Yard Depth: 40 feet
- Minimum Rear Yard Depth: 40 feet

However, where the housing abuts a residential zoning district, the setback shall be 60 feet and a buffer of natural material and/or an earthen berm shall be installed to provide screening on a year-round basis.
J. Building Height: Maximum building height as defined in Section XX for new construction shall be 4 stories and 45 feet for buildings used for assisted elderly living, independent elderly housing, and conventional multi-family housing. The maximum building height for nursing homes and skilled nursing facilities shall be three stories and 36 feet. See Building Conversion paragraph below for height restrictions for conversion of existing buildings to these uses.

K. Signs: Signs shall comply with the sign requirements of the underlying district.

L. Off-Street Parking: Off-street parking shall be provided in accordance with Section XXI.

M. Building Conversion: An existing building may be converted to uses allowed in the RIO subject to the terms of a special permit granted by the Planning Board. In no instance shall the building be expanded to exceed the height limitations specified below or the current height of the building if said height is greater than 45 feet. There shall be no maximum residential density. However, if the building proposed for conversion presently does not conform to the requirements of the underlying zoning district the provisions of Section XVII. shall apply to the conversion project. In this instance application shall not be made to the Zoning Board of Appeals under Section XVII. prior to the issuance of a special permit by the Planning Board under this Section.

N. Mixed Use Projects: Any combination of conventional housing types is permitted up to a maximum density of 24 units per acre. Further, up to 75 conventional units of any type of housing shall be permitted in conjunction with development of a facility providing at least 100 nursing home beds, 100 beds associated with a skilled nursing facility, or at least 80 assisted living or independent elderly housing units. A mix of residential units comprising independent elderly housing, assisted elderly living, skilled nursing, nursing homes, and any type of conventional housing shall also be allowed, consistent with the dimensional regulations of the RIO.

In RIO projects that provide at least 100 elderly dwelling units of any type, including skilled nursing facilities, or at least 50 conventional housing units of any type, up to 10,000 sq. ft. of retail space in a structure or structures separate from the residential units or nursing facility shall be permitted. All such developments shall be consistent with the dimensional and parking requirements for retail business in the Lower Falls Commercial District.

O. Project Approval/Special Permits: The provisions of Section XVIA. shall apply in all respects to projects in the RIO. Application shall not be made under Section XVIA, prior to the issuance of a special use permit by the Planning Board under this section. A special use permit shall be required from the Planning Board in conjunction with all projects employing RIO development options for building conversion or new construction and the Planning Board may waive specific dimensional requirements in accordance with the following:

1. A report shall have been received from the Design Review Board finding that the proposed project is consistent with the design criteria listed in Section XXII.; and
2. The proposed project shall provide and/or contribute toward pedestrian and bicycle amenities and shall, as applicable, accommodate pedestrian and bicycle circulation and safety in accordance with nationally recognized and accepted standards.
EXHIBIT E

Construction Management Plan
7. **New Business and Correspondence**

- Tetra Tech Correspondence
March 18, 2019

Board of Selectmen
Town of Wellesley
525 Washington Street
Wellesley, MA 02482

Re: Immediate Response Action Report
Petroleum Release – Dower Hall
Wellesley College Campus
Wellesley, Massachusetts

Dear Board Members:

On behalf of Wellesley College’s Environmental Health and Safety Office, and in accordance with the requirements of the Massachusetts Contingency Plan (MCP), 310 CMR 40.0000, we are providing this notification that an Immediate Response Action (IRA) Report is being submitted to the Massachusetts Department of Environmental Protection (MassDEP) in relation to the above-referenced location (the Site). The MassDEP was notified of a release of diesel fuel oil at the Site and has assigned Release Tracking Number 3-35405.

Local officials may obtain a copy of the submittal electronically via the MassDEP Site Viewer at http://public.dep.state.ma.us/wsc_viewer/main.aspx. If you have questions, would like additional information, or to request a copy of the PSS from the person conducting response actions, please contact the undersigned at 508-786-2200.

Very truly yours,

Ronald E. Myrick, Jr., P.E., L.S.P.
Director