

DECISION
2 and 3 Burke Lane, Wellesley, Massachusetts
Comprehensive Permit

Decision Number: ZBA 2019-53
Date Application Filed: April 18, 2019
Applicant: Cedar Place, LLC
Premises Affected: 2 Burke Lane (Assessor's Map 10, Lot 73) and 3 Burke Lane (Assessor's Map 101, Lot 42)
Relief Requested: Comprehensive Permit, G.L. c. 40B, §§ 20-23
Public Notice: May 2, 2019 and May 9, 2019
Public Hearing(s) held: May 16, 2019, June 4, 2019, June 19, 2019, July 18, 2019, August 6, 2019, September 5, 2019, October 2, 2019, October 29, November 14, 2019, and December 17, 2019.
Decision of the Zoning Board of Appeals: Approved with Conditions
Members participating: J. Randolph Becker, Walter Adams, and Richard Seegel
Date of Decision:

DRAFT

The Project

1. General Overview

Cedar Place, LLC (the “Applicant”) has requested from the Zoning Board of Appeals (the “ZBA”) the issuance of a comprehensive permit subject to General Laws Chapter 40B, §§20-23, authorizing the Applicant to construct 17 apartment units in two buildings, one existing and one new construction, on property described in the application as 2-3 Burke Lane, lying in a Single Residence 15,000 square feet (sf) zoning district (the “Project”). 2 Burke Lane is a vacant triangular parcel containing 2,012 square feet of land on the east side of Burke Lane. 3 Burke Lane is located on the west side of Burke Lane, contains 40,219 square feet of land, and the existing single family home is located on the front portion of the lot. The new structure, which will contain 15 units, will be located behind the existing building on 3 Burke Lane.

In total, 2 – 3 Burke Lane contains approximately 42,231 sf of land (.97 acres). As noted, 2 Burke Lane is on the opposite side of the street from 3 Burke Lane. The Applicant does not propose any structure, infrastructure, or other improvements on 2 Burke Lane and has stated that the lot will remain vacant. Nonetheless, 2 Burke Lane was included as part of the application to MassHousing for a project eligibility letter, and MassHousing treated it as part of the development locus in its approval letter. The ZBA therefore did not seek to have this lot removed from the comprehensive permit application prior to the close of the public hearing.

For the foregoing reasons, however, all references in this decision to the “Site” or the “Property” shall mean 3 Burke Lane, except where otherwise noted.

The Project consists of the redevelopment of the Site, construction of a new 15 unit walk-up, multi-family residential housing building, as well as the renovation of an existing single family dwelling with a two car garage into a two-unit dwelling with a two car garage. The renovated home will consist of a three bedroom, two bathroom unit and a one bedroom, one bathroom unit.

Of the 17 units, five will be restricted to households earning less than 80 percent of the area median income, with two of those affordable units containing two bedrooms/two bathrooms, one containing three bedrooms/two bathrooms, and two containing one bedroom/one bathroom. The development of deed-restricted affordable housing in a neighborhood that is proximate to some amenities and some transportation options advances the Town’s goals of smart growth and provides a diversity of housing options alluded to in the *Wellesley Unified Plan* (the “Unified Plan,” the Town’s comprehensive plan), drafted in February 2018, and the Town’s *Housing Production Plan* (the “HPP”), adopted September 24, 2018.

2. The Site

The Site is located on the western side of Burke Lane approximately 200 ft east of the intersection of Burke Lane with the Cedar Street east-bound entrance ramp to Route 9 (Worcester Street), and, as of the date of the application for a comprehensive permit, is occupied by a single family residence. Topographically, the Site exhibits considerable relief. The bulk of the Site is relatively flat at about elevation 109, approximately two feet above

the elevation of Burke Lane adjacent to the Site. The Site high point is in the southwestern corner of the Site at elevation 145, approximately 35 feet higher than Burke Lane. From the high point, the land slopes downward both to the east toward Burke Lane, and to the north toward Worcester Street. The slopes from the southern property line to the flat portion of the Site and from the western property line to the flat portion of the Site are both reasonably steep, approaching 1V:1H. The slopes along the southern and western property line contain mature trees that both screen the Site from adjacent properties, and serve to retard soil erosion of the slopes.

The Massachusetts Division of Fisheries and Wildlife Natural Heritage Atlas as well as the MassGIS Online Mapping tool show that the Site contains no priority habitats of rare species or estimated habitats of rare wildlife. The Flood Insurance Rate Map show that there are no flood hazard areas on the Site.

Three test pits were performed at the Site and indicate sandy loam, loamy sand, and sand in depths to 120 inches below ground surface. Estimated seasonal high groundwater levels were not observed in any of the test pits.

3. The Surroundings

The Site is bounded on the north by commercially zoned land that contains a variety of small businesses in low rise, single or two story buildings fronting on the east-bound entrance ramp from Cedar Street to Route 9. The commercial uses are generally surrounded by open surface parking lots.

Land use to the east, south and west of the Site is principally single-family residences that were built between 1880 (at 3 Burke Lane) and 2016 (at 18 Willow Park), and that are sited on lots that average slightly more than 15,000 sf in area. Aside from 2 Burke Lane at 2,012 square feet, the smallest lot in the neighborhood is 10,000 square feet. 3 Burke Lane is the largest lot in the neighborhood at 40,219 square feet.

Most residential development streetscapes in the neighborhood are “informal” with a variety of housing styles and inconsistent front yard setbacks and relationship of the homes to the street. The three streets that feed the neighborhood off Route 9 have been developed with some homes immediately on the street but also a second layer of development fed by long drives and cul-de-sacs leading into the middle of the large blocks defined by the streets. Generally, there is generous tree cover that provides some screenings between homes, which is important as the grid of homes is closely spaced, with homes behind homes in many instances.

4. The Proposed Development

The Project consists of the redevelopment of the Site with a proposed 2.5 story, 15 unit multi-family residential walk-up housing project (the “New Building”), plus the renovation of an existing single family home into a market rate three bedroom unit, an affordable one bedroom unit and two car parking garage (the “Existing Building”), for a total of 17 residential dwelling units. The Project will include twelve (12) market rate units and five (5) units of income restricted (in perpetuity) housing for households earning at or below 80 percent of the Boston-Quincy-Cambridge area median income. The five affordable units will

be comprised of two (2) one-bedroom units, two (2) two-bedroom units, and one (1) three-bedroom unit.

The New Building includes a basement for housing the mechanical equipment and potentially for storage, and two residential floors above. The first (ground) residential floor will contain seven apartments, four two-bedroom/two bathroom, two one bedroom/one bathroom units, and one three bedroom/two bathroom unit ranging in size from 722 sf. to 1,444 sf. The second residential floor will contain eight apartments, all two bedroom/two bathroom units, with four of the units having the bedrooms in a loft above the second floor in the central (highest) portion of the New Building.

The New Building form is faceted presenting a series of distinct gable forms in order to blend a multi-unit building into a single-family neighborhood. The New Building takes advantage of the shape and depth of the lot to set the New Building back further from Burke Lane similar to some other residences on the street, and using the topography to mask the New Building from certain abutter views, and using the Existing Building to minimize the view from Burke Lane. When viewed from the southern property line, the New Building presents as a series of four gable forms intended to give the impression of a residential building that has been added to over time, as have some of the residences in the neighborhood. The visual impact of the New Building is minimized by the topography along the southern and western lot lines, and by the Existing Building along Burke Lane on the east.

The New Building is sited and configured so as to minimize the building massing adjacent to neighboring homes putting the open surface parking lot and landscaping immediately adjacent to the neighbors.

The Existing Building was constructed in 1880 as a residence and will continue to have principally the same mass and bulk after completion of the Project as it had on the date of the application for a comprehensive permit.

Governing Law

1. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the “Act”), and the regulations promulgated by the Department of Housing and Community Development (“DHCD”), 760 CMR 56.00 et seq. (the “Regulations”).
2. The Act promotes regional distribution of low- or moderate-income housing by preventing individual cities and towns from using exclusionary zoning to block construction of such housing. Toward these ends, the purposes of the Act are satisfied if: (a) a town has low or moderate income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census; (b) on sites comprising 1 ½ percent or more of the town’s total land area zoned for residential, commercial, or industrial use; or (c) the application results in the commencement of low and moderate income housing construction on sites comprising more than 0.3 percent of such total area or 10 acres, whichever is larger, in one year.
3. DHCD’s Regulations expand the definition of what constitutes satisfaction of the statute to include such methods as “recent progress” toward the statutory minima or compliance with a DHCD-approved housing production plan, all as described in 760 CMR 56.03(1).
4. At the time of the filing of this comprehensive permit application, the Town did not meet the statutory minima set forth in G.L. c. 40B § 20 or the “safe harbor” provisions of 760 CMR 56.03(3). Specifically:
 - a. At the time of the filing of the application, the number of low- or moderate-income housing units in Wellesley constituted 6.77% percent of the total year-round units in the Town, based on the most recent decennial census. Thus, the Town does not meet the 10 percent statutory minimum.
 - b. Existing affordable housing units are on sites which comprise less than one and one half percent of the total land area of the Town which is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).
 - c. Granting the Applicant’s request for a comprehensive permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
 - d. DHCD approved the Town’s Housing Production Plan (the “HPP”) on September 27, 2018. However, at the date of the filing of the application, the Town had not achieved sufficient recent progress under the HPP to invoke this particular form of safe harbor.
 - e. The Town has not made “recent progress” as that term is defined in 760 CMR 56.03(5).
 - f. The proposed development does not constitute a “large project” as defined in 760 CMR 56.03(6).
 - g. The Site is not subject to any “related applications” as that term is defined in 760

CMR 56.03(7).

5. Given the foregoing, the ZBA's decision on this comprehensive permit application must balance the regional need for low- or moderate-income housing against the Town's long-range planning goals, local requirements and regulations to the extent that they are applied equally to subsidized and unsubsidized housing, and valid concerns about the health and safety of residents of the proposed housing, the surrounding neighborhood, or the Town as a whole; the protection of the natural environment; the promotion of better site and building design in relation to the surroundings and municipal and regional planning; or the preservation of open space.

6. The Applicant submitted to the ZBA a Project Eligibility Letter from Mass Housing dated March 27, 2019. Pursuant to 760 CMR 56.04, the issuance of this letter establishes as a matter of law that the Applicant is a limited dividend organization, that the Project is fundable by a Subsidizing Agency under a low or moderate income housing program, and that the Applicant has control of the Site. The issuance of this letter by Mass Housing allows the Applicant to file its comprehensive permit application with the ZBA.

DRAFT

Procedural History

The Applicant submitted its application to the ZBA on April 18, 2019. The ZBA published notice on May 2 and May 9, 2019, and sent notice to all parties in interest. The ZBA opened the public hearing on this application on May 16, 2019 and held continued sessions of the hearing on June 4, 2019, June 19, 2019, July 18, 2019, August 6, 2019, September 5, 2019, October 2, 2019, October 29, 2019, November 14, 2019, and December 17, 2019. The Applicant agreed in writing to extend the time for the ZBA to conduct the public hearing on this application through December 6, 2019, and then through December 20, 2019. The ZBA voted to close the public hearing on December 17, 2019.

Over the course of the public hearing, the ZBA heard and considered extensive testimony from the Applicant and its consultants. The ZBA also retained expert peer review of the Applicant's submittals from the following:

Civil Engineering: David J. Hickey, Town Engineer for the Town of Wellesley
Traffic and Transportation: Robert L. Nagi of VHB
Architecture and Design: Clifford J. Boehmer of Davis Square Architects

At a public meeting held on [REDACTED], the ZBA voted [REDACTED] to approve the Project subject to the findings, the action on the requested waivers, and the conditions set forth herein.

Findings of Fact

1. Zoning

The Zoning Bylaw provides, for each zoning district, requirements for the use of land and structures, as well as dimensional requirements for the land and structures erected upon the land.

a. Use Requirements

The Project is located in an SR-15 zoning district. Among the uses allowed in the SR-15 district are: (1) one-family dwellings; (2) educational uses; (3) child care facility; (4) clubs; (5) agriculture; (6) certain home occupations; (7) accessory uses customary to the allowed uses; and (8) certain other specialized uses upon the granting of a special permit.

As a multi-unit, multi-family residential building, the use of the Project is not allowed in an SR-15 district, and this gives rise to the first principal waiver request under the comprehensive permit requested under G.L. c.40B §§ 20-23.

b. Dimensional Requirements

The Zoning Bylaw provides for each zoning district dimensional requirements for the lot, for the placement of buildings and structures on the land, and for the structures themselves. The dimensional requirements for the SR-15 district, and the corresponding dimensional information from the Project are summarized in Table 1, segregating those applicable to the Existing Building from those applicable to the New Building, where applicable.

Table 1 – SR-15 Dimensional Comparison

Category	Required	Existing Building	New Building
Lot Area	15,000 sf	40,219 sf ¹	
Frontage	100 ft	200 ft	
Minimum Front Yard Width	100 ft	147.85 ft	147.85 ft
Minimum Front Yard Depth	30 ft	8.5 ft	8.5 ft
Minimum Right Side Yard Width	20 ft	11.0 ft	9.0ft
Minimum Left Side Yard Width	20 ft	48.3 ft	48.3 ft
Minimum Rear Yard Depth	20 ft	~200 ft	77.9 ft
Maximum Building Coverage	0.15	0.269	
Maximum Building Height	45 ft	~28 ft	41.0 ft

- i. The Lot Requirements: With respect to the dimensional requirements for the

¹ 3 Burke Lane only.

lot, the Project meets the SR-15 requirements for both lot area and lot frontage.

ii. Placement Requirements – Existing Building: The Existing Building was constructed in about 1880, well before the Zoning Bylaw was created. Hence, under both the Zoning Bylaw and Chapter 40A, Section 6, the front yard depth and the right side yard width are pre-existing non-conformances, and the Existing Building is a pre-existing non-conforming structure. The proposed modifications to the Existing Building will decrease the right side yard depth to 9.0 feet from the property line to the building footprint.

iii. Placement Requirements – New Building: The New Building has been located on the Site to facilitate parking, traffic circulation, and pedestrian circulation, as well as to minimize impacts on the residential neighborhood to the south. The front yard depth exceeds the minimum of 30 feet for the SR 15 district, as does the left side yard width exceed the minimum of 20 feet. The right side yard width does not increase the nonconformity created by the location of the Existing Building, but neither does it meet the side yard width requirement of 20 feet. The rear yard depth requirement of 20 feet is easily met with the rear yard depth of nearly 78 feet.

iv. Dimensional Requirements: Both the Existing Building, and the new building, meet the height requirements for the SR 15 district. The aggregate lot coverage of the Existing Building and the New Building is 26.9 percent, higher than the 15 percent limit in an SR 15 district.

v. Summary: With respect to those requirements for the lot itself, the Site meets the area and frontage requirements. The Existing Building is a pre-existing non-conforming structure. The modifications to the building will not impact the front yard depth, but will decrease the side yard depth (that is, increase this nonconformity). The New Building meets all of the placement requirements except the right side yard depth. For the dimensional requirements for the buildings themselves, the Project fails to meet the SR-15 requirement for maximum building coverage, but meets the maximum building height requirement.

2. Land Use and Planning

As noted above, under the Zoning Bylaw, multi-family residential use is not allowed in the single residential districts that comprise the bulk of the residential land in Town. All the commercial zoning districts allow multi-family residential uses and there are four residential zones that allow more than single-family houses. Three of those zones cover relatively small areas and were tailored for specific developments that are not expected to change. The General Residence zone, however, covers 73 acres but allows only two-family buildings and town houses in addition to single-family houses.

Participants in the Unified Plan public meetings saw the commercial, office and industrial districts as the most acceptable locations to construct new housing that is not single-family housing. A mixed-use approach, combining housing with retail stores, was often mentioned. The Zoning Bylaw requirements for the administrative and professional districts that the Unified Plan envisions would be the location of the multi-family housing, currently do not allow such uses. The Unified Plan does not anticipate developments like the Project in SR-

15 districts.

3. Site

In order to accommodate the Project, the Site is to be re-graded, and earth material will be excavated and removed from the Site to make way for the foundations, the stormwater management system, and retaining walls. These operations give rise to two issues that may impact the analysis: (1) retaining walls; and (2) stormwater management system.

a. Retaining Walls

To accomplish the grading of the Site, five retaining walls are proposed along both portions of the east, south, and west property lines, as well as interior to the Site, as shown in the Approved Plans.

The principal retaining wall is Retaining Wall 1. It is to be installed along the southern boundary, but it is not on or parallel to the southern lot line. At its easternmost end about a 60 foot length is closer than 10 feet to the property line, while over the remainder of its length it is more than 10 feet from the property line. For the portion that is closer than 10 feet to the property line, over that 60 foot length the unbalanced fill retained by the wall is less than four feet. The highest portions of the wall, which reach 12 feet, are located at a distance greater than 10 feet from the property line. While Retaining Wall 1 is not exempt from the requirements for retaining walls in the Zoning Bylaw, the proposed wall meets the setback and height requirements of the Zoning Bylaw. Retaining Wall 1 is readily visible to the residents of the Project, but not to the residential abutters, and not to the general public from Burke Lane.

Retaining Wall 2 is a terraced wall parallel to the western property line with wall heights varying between 0.5 and four feet in height, and the unbalanced fill to be retained by the wall is less than four feet. Therefore, Retaining Wall 2 meets the terrace requirements of the Zoning Bylaw and is exempt from the requirements for retaining walls. Retaining Wall 2 is visible to the residents of the Project, but not readily visible to the general public or the residential abutters.

Retaining Wall 3 and Retaining Wall 4 are interior to the Site, located between the Existing Building and the New Building. These two walls each retain less than four feet of unbalanced fill and are thus exempt from the retaining wall requirements of the Zoning Bylaw, and neither is readily visible from the street.

Retaining Wall 5 along the eastern lot line retains less than four feet of unbalanced fill, and the face of the wall is visible from the street, but not to residents of the Project. Because Retaining Wall 5 retains less than four feet of unbalanced fill, it is exempt from the retaining wall requirements of the Zoning Bylaw.

The retaining walls are proposed to be Redi Rock Walls® a segmental precast concrete system manufactured to imitate natural stone.

b. Stormwater Management System

The proposed stormwater management system consists of three parts: (1) roof drainage; (2) parking lot drainage; and (3) overflow provisions.

Roof drainage is collected and directed through leaders into underground reinjection chambers that retain the runoff until it can be infiltrated to groundwater. The chambers are located between the New Building and the northern lot line, and are buried underneath the sidewalk in that location.

The parking lot drainage system employs porous asphaltic pavement that infiltrates the stormwater to a gravel reservoir that underlies the pavement, and that retains the stormwater as it infiltrates to groundwater. The gravel reservoir is designed to assure that during the winter frost cannot seal the infiltration surface and that the system will continue to infiltrate. Maintenance procedures include periodic vacuuming of the asphaltic surface to prevent solids from clogging the porous openings in the asphalt.

Because the parking lot (and consequently the gravel reservoir) slopes downward from the rear of the Site toward Burke Lane, the reservoir is provided with check dams to encourage the stormwater to infiltrate vertically (rather than traveling horizontally down the slope), thus distributing the stormwater more uniformly across the reservoir than if it simply followed the slope. The check dam system is provided with an overflow to a leeching basin in the unlikely event that large or sequential storms overwhelm the reservoir storage.

Consistent with accepted engineering practice, the Applicant prepared and submitted the “Stormwater Report, 3 Burke Lane” dated April 16, 2019 (the “Stormwater Report”) that compared the runoff from the existing lot to the runoff from the Project. In addition, the Stormwater Report analyzed the stormwater management system to determine compliance with MassDEP Stormwater Management Policy. The DPW, as the ZBA’s stormwater peer reviewer, did not raise any major concerns in its memorandum regarding the proposed drainage plan that were not accommodated by the Applicant. The Stormwater Report and the memorandum indicate that in general the Project will improve water quality and reduce peak runoff rates and is in compliance with the Massachusetts DEP Stormwater Management Policy.

4. Architecture

To assess the architecture and design, during the public hearing the Project density, height and bulk, and architectural details were reviewed.

a. Density

Based on the Assessor’s “FY18 Residential” list, the median lot size in the single residence districts is 19,439 sf. Since the Zoning Bylaw allows only a single dwelling on a lot, this implies that the median residential density in the residential districts is only 2.2 units/acre.

Based on information from the Planning Board staff, Wellesley has listed in its SHI 14 completed rental developments and nine completed ownership developments, for an overall total of 23 developments. The density of these developments ranges from a low of 0.4

units/acre at Wellesley Place (978 Worcester Rd) to a high of 39.9 units/acre at List House (315 Weston Rd). The median affordable housing development in Wellesley has a density of 23.8 units/acre.

Since the Project has 17 units on 0.96 acres, including 2 Burke Lane, the density of the Project is 17.7 units per acre. Excluding 2 Burke Lane, the Project has 17 units on 0.92 acres, with a density of 18.5 units per acre. Hence, in comparison to the density of the median residential neighborhood, the Project represents a significant increase in density, while in comparison to other existing affordable housing projects in Wellesley, the Project density is significantly smaller than the median value.

b. Height and Bulk

Under the terms of the Zoning Bylaw, the height of a building is measured from the average grade to the peak of the roof. For the New Building, that height is 42 feet, approximately three feet lower than the height allowed in the SR-15 district. As noted above, the New Building is sited such that the topography minimizes the views from neighboring properties.

In an analogous way, the location of the New Building in the right rear corner of the Site means that the length of the New Building is not seen in full view from the street, and the view of the New Building from Burke Lane is partially blocked by the Existing Building.

Nonetheless, the size and height of the New Building represents an increase in height and bulk when compared to other structures in the neighborhood.

c. Architectural Details

The front façade of the New Building employs a townhouse vernacular, and includes four gable roofs that are meant to give the appearance of separate additions to a main building, and to tie the New Building into the neighborhood. Further, the second residential floor lofts use dormers, again reflecting typical residential construction, and the ground floor entrances use columns and roofs to mimic porches. The ZBA's architectural peer reviewer suggests that while the design is intended to express a sense of organic growth through multiple additions or expansions to an original structure its overall scale and rigid symmetry work against that reading, and in the end the massing comes across as very boxy and monumental.

The ZBA, and its architectural peer reviewer recognize that the Applicant has taken positive steps to mask and mitigate the bulk of the New Building through site planning, and through the use of gabled roofs and other residential features, though in the view of the ZBA and its architectural peer reviewer these measures have not been completely successful.

5. Transportation and Access

a. Site Access

Access to the Project will be provided by way of a new driveway at the southeast corner of

the Site. The driveway is a full access driveway that will intersect the west side of Burke Lane approximately 320 feet south of the Route 9 eastbound on-ramp. The Site access has been reviewed by both the Applicant's traffic engineer and the ZBA's traffic peer reviewer, who concur safe and efficient vehicular, pedestrian and bicycle access will be provided to the Site and the Project can be accommodated within the confines of the existing and improved transportation system.

b. Public Transportation

Public transportation services are provided within the study area by the Metrowest Regional Transit Authority (MWRTA). MWRTA bus Route 1 provides service along Route 9 and Cedar Street between the MWRTA Blandin Hub in Framingham and Woodland Station on the Massachusetts Bay Transportation Authority (MBTA) Greenline subway system in Newton. Residents of the Project can access the Route 1 bus at the Cedar Street/Route 9 eastbound ramps intersection, which is within an approximate three-minute walking distance of the Site. The MWRTA also operates Paratransit Services for seniors and the disabled who meet ADA requirements.

6. Traffic and Parking

To assess the traffic impacts of the Project, the Applicant commissioned the "Transportation Impact Assessment" prepared by Vanasse & Associates, Inc. dated March 14, 2019 (the "TIA"). The TIA was prepared in consultation with the Massachusetts Department of Transportation (MassDOT) and the Town; was performed in accordance with MassDOT's Transportation Impact Assessment Guidelines and the traffic review standards for a Project of Significant Impact as defined in the Zoning Bylaw; and was conducted pursuant to the standards of the traffic engineering and transportation planning professions for the preparation of such reports.

The TIA evaluated i) access requirements; ii) potential off-site improvements; and iii) safety considerations; under existing and future conditions, both with and without the Project. The ZBA engaged VHB/Vanasse Hangen Bruslin, Inc. to perform a peer review of the TIA, and VHB concluded that the information contained in the TIA is both technically accurate and portrays the likely impacts of the Project on the roadway system studied in the TIA.

The findings of the TIA for vehicular traffic, including both roadways and intersections, and pedestrian traffic, are as follows:

a. Vehicular Traffic

The roadways assessed in the TIA included Burke Lane and at the intersection of Burke Lane and Worcester Street (Route 9) eastbound on-ramp from Cedar Place.

Based on measurements of the traffic on Burke Lane, the existing roadway accommodates approximately 160 vehicle trips on an average weekday (two-way, 24-hour volumes), with approximately 11 vehicle trips expected during the weekday morning peak-hour and 16 vehicle trips expected during the weekday evening peak-hour. Based on the VAI analysis, the Project is forecast to generate approximately 86 vehicle trips (two-way, 24 hour volumes), with approximately six vehicle trips expected during the weekday morning peak

hour and eight vehicle trips expected during the weekday evening peak hour.

The traffic volume increases that are expected to be associated with the Project are relatively modest and would not be expected to result in a material increase in motorist delays or vehicle queuing over the existing condition. VAI reported that the Project will not have a significant impact (increase) on motorist delays or vehicle queuing over existing or anticipated future conditions without the Project (no-build conditions).

While the VAI forecast of traffic generation was based on a 16 unit building, the addition of a seventeenth unit would generate approximately five additional vehicle trips (two-way, 24 hour volume), with less than a single additional vehicle during the morning peak hour and less than a single additional vehicle in the evening peak hour. The ZBA finds that the addition of such volumes of traffic due to the seventeenth unit does not materially impact the analysis or conclusions of either VAI or VHB.

Motor vehicle crash data provided by MassDOT for the Burke Lane/Route 9 eastbound on-ramp intersection shows nine motor vehicle crashes over the five-year period, and the intersection was found to have a motor vehicle crash rate above the MassDOT and District average for an unsignalized intersection. The majority of the crashes that were reported at this intersection occurred on a weekday, during daylight, under clear weather conditions, and involved rear-end type crashes that resulted in property damage only. No fatal motor vehicle crashes were reported to have occurred at the study area intersections over the five-year review period.

Finally, VAI found that the lines of sight to and from the Project driveway/Burke Lane intersection either exceed or could be made to exceed (as conditioned below) the required minimum distance for the intersection to function in a safe manner.

In consideration of the above, the TIA concluded that the Project can be accommodated within the confines of the existing transportation infrastructure in a safe manner with implementation of the recommendations provided in the TIA.

b. Pedestrian Traffic

A field inventory of pedestrian and bicycle facilities within the study area was undertaken in January 2019, consisting of a review of the location of sidewalks and pedestrian crossing locations along the study roadways and at the study intersections, as well as the location of existing and planned bicycle facilities.

The TIA reports that a sidewalk is provided along the south side of the Route 9 eastbound on-ramp and along the west side of Burke Lane from the Route 9 eastbound on-ramp to the Project driveway. Sidewalks are not provided along the remainder of Burke Lane from the Project driveway to McLean Street.

c. On-site Parking

On-site parking will be provided for 26 vehicles consisting of 24 parking spaces in an open, surface lot south of the New Building, with two spaces in a garage attached to the Existing Building. The proposed parking results in a parking ratio of 1.53 spaces per dwelling unit.

While this parking ratio is at the lower end of the range of values documented by the Institute of Transportation Engineers (ITE) for an apartment community in a suburban setting, the ZBA finds this level of parking is acceptable for the Project.

7. Utilities

Within Burke Lane, the Site is served by a variety of public utilities including water, sewer, natural gas, storm water disposal, electric, telephone and cable.

a. Water and Sewer

In its initial comprehensive permit application, the Applicant has indicated that the Project will consume about 6,171 gallons of water and produce 5,610 gallons of sewerage per day. The initial assessment of the DPW is that the existing infrastructure in Burke Lane is sufficient to meet those estimated needs. In fact, the data furnished by the DPW indicates that the water flow available is approximately twice the estimated consumption, so that the ZBA finds that the addition of a seventeenth unit to the Project will not adversely impact the DPW's initial assessment.

b. Solid Waste

Residents of the Project will collect their waste and dispose of it in the designated outdoor trash/recycling area located in the surface parking lot adjacent to the New Building. Waste will be collected from the storage area by a private rubbish removal company engaged by the management company. The collection will be scheduled at off peak hours so as not to impede any entering or exiting traffic from tenants/guests.

The Project will not adversely affect the Town's Recycling and Disposal Facility.

c. Private Utilities

Natural gas, electric service, telephone service, and cable service can be provided on the same basis as to other residences in the Town.

8. Environmental Considerations

There are no wetlands located on the Site, and Massachusetts Division of Fisheries and Wildlife Natural Heritage Atlas as well as the MassGIS Online Mapping tool show that the Site contains no priority habitats of rare species or estimated habitats of rare wildlife. The Flood Insurance Rate Map show that there are no flood hazard areas on the Site.

Other than customary snow and ice control chemicals and fuel stored in the automobiles parked in the surface lot, storage of chemicals that would threaten groundwater or surface water is not part of the Project. The Site is not in a water supply protection district.

Exterior lighting is planned to be dark-sky friendly, and the submitted photometric plan demonstrates that light spill-over to adjacent properties is prevented.

9. Public Safety/Life Safety

The New Building is designed with a fire sprinkler system as specified in the Massachusetts Building Code, but as a renovation, the Applicant represented that the Existing Building is not required to have a fire sprinkler system under the code and has not included such a system. The Applicant presented correspondence from the DPW with hydrant flow data from 2003 that the DPW asserts is still accurate, and that demonstrates that the Site is located in an area that has sufficiently high water pressure, and that sufficient flow and volume is available to meet the fire protection needs of the Project.

The Applicant submitted a fire vehicle access plan showing computer simulations of pumper truck and ladder truck turning movements demonstrating that the vehicles could safely access and egress the Site. Hence, fire vehicles and fire fighters will be able to access the New Building and the Existing Building from Burke Lane, from the surface parking lot, or from the parking lot at the adjacent commercial office building parking lot at 174-180 Worcester Street.

The Fire Department has not raised any concerns with the Project, but will review the final plans prior to the issuance of any building permit.

10. Signage

The Design Review Board reviewed the proposed signage at their meeting on October 16, 2019. Due to a scrivener's error in its original recommendation letter, a revised letter was submitted to the ZBA on October 30, in which the DRB suggested the following changes: (1) lower sign with stone for support rather than wood/vinyl posts; (2) reduce the size of the sign by 20-30 percent; (3) reduce height of size to no more than 4 feet; (3) redesign sign so that it is single-sided and placed parallel to the street, oriented towards pedestrian traffic rather than vehicle traffic; (4) integrate sign with landscape elements; and (5) ensure sign is dark sky friendly.

The Applicant has accepted the recommendation of the DRB and submitted a plan meeting the stated specifications, which plan has been incorporated into the Approved Plan set for the Project.

The Zoning Bylaw does not anticipate a sign like the standing sign located in a single family residential district, so the sign does not meet the dimensional requirements for an SR-15 district, even though the standing sign is reasonably modest in size and design. The standing sign is somewhat larger than would be allowed in an Office and Professional District or a Commercial District (not fronting on Worcester Street), but the letter size is significantly smaller.

The Approved Plans indicate that signage related to traffic and parking control on the Site will comply with the applicable standards of the Manual of Uniform Traffic Controls.

Resolution of Major Local Concerns

Over the course of the public hearing, the ZBA heard and considered extensive testimony from the Applicant and its consultants, and from retained expert peer reviewers by the ZBA. The ZBA also heard a considerable amount of oral and written testimony from residential abutters, neighbors, residents of the town, and town officials. The ZBA used the technical backgrounds of its members, its experience on prior affordable housing projects and site plan approval processes to classify the local concerns expressed and to deliberate on these expressed concerns, considering whether the concerns were valid, compelling, and documented.

1. Health

The concern expressed about health issues related to the outdoor storage of solid waste and recycled material in an enclosure near the southern property line, and to the visual impact of the storage and to any odor control that might be required.

The Board of Health regulates such installations, and no waivers of any Board of Health regulations are granted. The size and location of the solid waste facilities are not materially different from those in other market residential and commercial locations in Wellesley, so the ZBA finds that this concern is valid, but neither compelling, nor documented. Hence, the regional need for low- and moderate-income housing outweighs this local concern.

2. Safety

a. Life Safety

Prior to the issue of the preliminary eligibility letter by DHCD the Town had expressed concerns about fire apparatus access to the Site, and compliance of the Project design with fire safety requirements. During early sessions of the public hearing, neighbors had likewise identified fire apparatus access to the Site as a concern. In response to these concerns, and to questions and comments from the ZBA, the Applicant modified the design of the Project. The Applicant provided computer simulations of turning radii for the largest piece of fire equipment in the Town's inventory demonstrating that the largest piece of fire apparatus could access the Site, turn around, and exit the Site safely. The Fire Department reviewed and accepted the revised design, and the ZBA finds that the revised design mitigates the concerns expressed. Hence the regional need for low- and moderate-income housing outweighs this local concern.

b. Vehicular Traffic Safety

Early in the public hearing process, the neighbors asserted that Burke Lane is narrower than a normal Town street, has no on-street parking, blind curves and turns, poor lighting, and no sidewalks. Further, the main ingress and egress points to and from Burke Lane lead to two heavily trafficked intersections: (1) the Cedar Street/Hunnewell Street/Hastings Street/McLean Street intersection; and (2) the Burke Lane/Route 9 eastbound on-ramp intersection. The neighbors further asserted that these characteristics are unique and therefore traffic and pedestrian safety is a legitimate concern when considering the implementation of the Project.

Vanasse & Associates, Inc. (“VAI”), the Applicant’s traffic consultant, studied Burke Lane and the intersection of the Route 9 eastbound on-ramp and Burke Lane, looking at both the volume and speed of the existing traffic and at the projected future traffic including the Project. The results showed that Burke Lane is a low-speed, low-volume roadway that has sufficient width for two-way traffic. Based on the ZBA’s prior experience, because the Town has a high percentage of single-family residential districts, such roadways are not uncommon in the Town. Based on the results of the TIA, both VAI, and Vanasse Hangen Brustlin, Inc. (“VHB”), the ZBA’s peer reviewer, concluded that the Project will result in a minimal increase in traffic over existing conditions (fewer than 10 additional vehicle trips during the peak commuter hours, or fewer than one (1) additional vehicle every six (6) minutes) and, as such, will not result in a material increase in motorist delays or vehicle queuing along the Burke Lane or at the Burke Lane/Route 9 eastbound on-ramp intersection. Accordingly, the consultants have concluded, and the ZBA agrees, that the transportation infrastructure affords sufficient capacity to accommodate the Project in a safe and efficient manner, even as amended to include the additional one-bedroom unit.

Similarly, neighbors and residents of the Town asserted that the addition of the Project’s traffic to the Route 9 eastbound on-ramp traffic would create safety hazards both for vehicular traffic and for the residences at the corner of the on-ramp, Burke Lane and Worcester Street, an intersection that has a traffic accident incident rate higher than the MassDOT district average. The results of the TIA for the operation of the Route 9 eastbound on-ramp/Burke Lane/Worcester Street intersection showed that the Project will result in a minimal increase in traffic over existing conditions (fewer than six additional vehicle trips during the peak evening commuter hours, or fewer than one (1) additional vehicle every ten (10) minutes). All movements at the study area intersections were shown to operate at LOS “B” or better during the peak hours under all analysis conditions, with negligible vehicle queuing predicted. In addition, during the public hearing process but independent from ZBA action, a new guard rail was installed along the Route 9 roadway that now protects the corner residence from errant vehicles at the base of the on-ramp.

Hence, the ZBA finds that the expressed concerns are valid, though not compelling, and not consistent with the documentation introduced into evidence.

c. Pedestrian Traffic Safety

The expressed local concerns with respect to pedestrian traffic had two distinct components: (1) the addition of Project traffic increasing the risk to pedestrians who walk in the roadway because there are no sidewalks along the length of Burke Lane; and (2) the lack of sidewalks to support Project and neighborhood children walking to the nearby Fiske Elementary School.

With respect to the first expressed local concern, as described above, the TIA concluded that the level of traffic increase was sufficiently small that Burke Lane can continue to functionally accommodate shared use of the traveled-way between vehicular and pedestrian traffic.

With respect to the second expressed local concern, the Applicant will install a new sidewalk on the west side of Burke Lane from the Project driveway to the northern property

line. That new sidewalk will connect to a second new sidewalk from the northern property line to the Route 9 eastbound on-ramp, which in turn connects to a new third sidewalk along the southern side of the Route 9 eastbound ramp that connects to the existing sidewalk system. The second and third new sidewalks are to be installed as part of an already permitted parking lot renovation adjacent to but separate from the Project. The aggregated new sidewalk system will provide a safe walking path from the Project to the current pedestrian crossing of Cedar Street to the Fiske Elementary School, as well as providing a safe place for children to wait for school buses should the School Department choose to do so.

Hence, the ZBA finds that the expressed concerns are valid, though not compelling, and not consistent with the documentation introduced into evidence.

3. Environment

Evidence introduced during the public hearing shows that the Site contains no priority habitats of rare species or estimated habitats of rare wildlife. The Flood Insurance Rate Map show that there are no flood hazard areas on the Site, and no wetlands were identified on the Site. The Site is not in a water supply protection district. Hence, the ZBA finds no local concerns with respect to the environment.

4. Design

a. Density

Through both written and oral testimony, neighbors expressed concern with the density of the Project, which is 17 units on 0.92 acres (excluding 2 Burke Lane) or 18.5 units per acre. The density of the SRD-15 district in which the Project is located is 2.9 units per acre. In comparison to single-family residences in the neighborhood, the density of the Project is high. However, in comparison to the median affordable housing project in Town, at 23.8 units per acre, the Project is less dense than other affordable housing projects. The ZBA finds that the regional need for low- and moderate-income housing outweighs this local concern.

b. Height and Bulk

In conjunction with the concerns expressed over the density of the Project, neighbors also expressed concerns about the height and bulk of the Project. The New Building is placed behind the renovated existing home, towards the back of the Site. Locating structures towards the back of the lot is relatively common in the neighborhood of the Project. Thus, while the scale of the new building is significantly larger than the surrounding context, its siting strategy is similar.

The design is intended to express a sense of organic growth through multiple additions or expansions to an original structure, though it's overall scale and rigid symmetry work against that reading. In the end, the ZBA's peer reviewer, judged that the massing comes across as very boxy and monumental, and that it is difficult to argue that the New Building will be in keeping with the aesthetics of other residential properties on Burke Lane. While the ZBA accepts its architect's opinion, the ZBA finds that the regional need for low- and

moderate-income housing outweighs this concern.

c. Architectural Materials and Details

Written testimony from neighbors echoed the concern of the ZBA’s architect about the siding and trim for the New Building. The Approved Plans incorporate vinyl siding and PVC trim for the New Building. The ZBA’s peer reviewer took no issue with the choice of PVC for trim, but opined that vinyl siding on a building of the scale of the New Building will not be a good fit for the neighborhood. While the ZBA takes note of this opinion, it notes that the New Building is screened from view by the Existing Building when viewed from Burke Lane, and by the terrain between the New Building and the surrounding neighborhood. The ZBA finds that the regional need for low and moderate income housing outweighs this concern.

5. Open Space

The Town’s “*Open Space and Recreation Plan, 2015-2022*” does not identify protected or unprotected open space in close proximity to the Project. The closest open space listed is the Fiske Elementary School playgrounds within about a 10 minute walk from the Project. Neither is the Site identified as a priority for open space protection. Hence, open space is not a local concern with respect to the Project.

6. Planning

As noted above, under the Zoning Bylaw, multi-family residential use is not allowed in the single residential districts that comprise the bulk of the residential land in Town. Participants in the Unified Plan public meetings saw the commercial, office and industrial districts as the most acceptable locations to construct new housing that is not single-family housing. The HPP, in its housing development strategies and action plan, anticipated that the area around Worcester Street (Route 9) and Cedar Street may be suitable for zoning innovations that are consistent with the Unified Plan and that would encourage suitable affordable housing. The ZBA notes that the Project is on the boundary between business uses and residential uses. The Project is reasonably consistent with many of the goals of the HPP and the Unified Plan.

Waivers

The Applicant submitted a list of requested waivers from the Town’s bylaws, rules and regulations with its Application on April 18, 2019. On October 1, 2019, the Applicant amended its waiver list through an email communication between its representative and Christopher H. Heep, Town Counsel. The ZBA acted on the Applicant’s requested waivers to the Zoning Bylaw as follows:

1. Section 2(A): SINGLE FAMILY RESIDENCE DISTRICT.

The Applicant seeks a waiver of the use requirements of the Single Residence District to allow for the construction of a multi-family use that is not allowed in the district. The ZBA balanced the regional need for low- or moderate-income housing against the local concern for limiting the housing in this zoning district to single family residences and finds that the regional need for low- or moderate-income housing outweighs that local concern. Therefore, the ZBA grants the requested waiver to allow for a multi-family rental development consisting of 17 units (12 market rate and five affordable) in two buildings with parking and appurtenances as shown on the Approved Plans (as defined below in Condition 2) and subject to all of the conditions set forth herein.

2. Section 16: RESTRICTIONS AFFECTING ALL DISTRICTS.

The Applicant seeks a waiver of Section 16(D)(4), which prohibits the parking, keeping or storing of one or more commercial trailers for an aggregate total of more than thirty (30) days in any one year unless the trailer is parked pursuant to an office or storage trailer permit issued by the Building Inspector in conjunction with construction and/or demolition of the premises. The ZBA grants this waiver request to allow for the parking, keeping or storing of a commercial trailer during the construction period. The ZBA notes that the considerations normally addressed in the office or storage permit proceeding were reviewed as part of the ZBA’s public hearing on the comprehensive permit application.

The Applicant also seeks a waiver of Section 16(E) to allow for the construction of multi-family buildings without the applicability of the project review procedures in Sections 16A PROJECT APPROVAL and Section 25 SPECIAL PERMIT GRANTING AUTHORITY. The ZBA grants the procedural waiver request to allow for a multi-family rental development consisting of 17 units (12 market rate and five affordable) in two buildings with parking and appurtenances as shown on the Approved Plans, on the basis that the Comprehensive Permit procedure replaces the project approval process specified in Section 16A and the special permit process specified in Section 25. The ZBA notes that the subjects normally addressed in these reviews were reviewed as part of the ZBA’s public hearing on the comprehensive permit application.

3. Section 16A: PROJECT APPROVAL.

The ZBA grants a waiver of the requirement that the Project obtain design review, site plan review, and a Project of Significant Impact Special Permit. The ZBA notes

that the subjects normally addressed in connection with design review, site plan review and PSI review were addressed as part of the ZBA's public hearing on the comprehensive permit application.

4. Section 16C: DRAINAGE REVIEW.

Section 16C only applies to projects involving grading or re-grading of land to planned elevations and/or removal or disturbances of the existing vegetative cover, over an area of one acre or more. Here, the Applicant proposes to disturb less than an acre of land (whole Project site is only 0.96 acres), so Section 16C does not apply to the Project and a waiver is not required.. Notwithstanding the foregoing, the ZBA notes that the drainage was reviewed as part of the ZBA's public hearing on the comprehensive permit application.

5. Section 16E: TREE PROTECTION & PRESERVATION.

The ZBA waives the requirements of this section of the Zoning Bylaw; provided, however, that a waiver of the conditions contained in this section requiring maintenance of replanted or new trees in Section 16E(F)(4) is denied.

6. Section 17(B)(1): PRE-EXISTING NON-CONFORMING USES, STRUCTURES AND LOTS.

The ZBA grants a waiver of the procedural requirement in Section 17(B)(1) that the Project undergo separate application for changes to non-conforming one and two-family dwellings pursuant to this section of the Zoning Bylaw. Notwithstanding the foregoing, the ZBA notes that the existing dimensional nonconformities of the Existing Building at 3 Burke Lane were reviewed as part of the ZBA's public hearing on this comprehensive permit application and found to be legally pre-existing nonconformities, and to the extent that existing dimensional nonconformities concerning the front and side yards will persist in the completed Project with respect to the new building, they have been specifically authorized in the form of dimensional waivers otherwise granted in this Comprehensive Permit.

7. Section 18(B): AREA REGULATIONS.

The ZBA reviewed the actual ratio of building to lot area and finds that the regional need for low- or moderate-income housing outweighs the local concern for the ratio of building to lot area. Therefore, the ZBA grants a waiver of the required ratio of 15 percent to allow for an actual ratio of 0.38 as shown on the Approved Plans and a waiver of the required ratio of 15,000 square feet per dwelling unit to allow for an actual ratio of 2,365 square feet per dwelling unit to allow for the construction of 17 dwelling units as shown on the Approved Plans

8. Section 19: YARD REGULATIONS

The ZBA reviewed the actual front yard depth and finds that the regional need for low- or moderate income housing outweighs the local concern for the 30 foot

minimum front yard depth. Therefore, the ZBA grants a waiver of the requirements of a 30 foot minimum front yard depth to allow for an actual front yard depth of 8.5 feet as shown on the Approved Plans. The ZBA also reviewed the actual side yard depth and finds that the regional need for low- or moderate income housing outweighs the local concern for the 20 foot minimum side yard depth. Accordingly, the ZBA grants a waiver of the 20 foot minimum side yard depth to allow for an actual side yard depth of 9.0 feet, as shown on the Approved Plans. Further, Section 19(B) prohibits air conditioning equipment in the setback areas, while the Approved Plans show air conditioning compressors in the side yard setback area adjacent to the parking lot of the business use to the north of the Site. The ZBA finds that the regional need for low- and moderate-income housing outweighs the local concern for equipment in the setback areas and grants a waiver of this requirement. Lastly, the ZBA grants a waiver of the requirements of Section 19(C) to the extent necessary to allow for the construction of 17 dwelling units on one lot as shown on the Approved Plans.

9. Section 21: OFF STREET PARKING.

The ZBA grants a waiver of the requirements of Section 21 so as to allow for the construction of resident parking spaces, guest parking spaces, and maneuvering aisles as shown on the Approved Plans, which the ZBA finds is consistent with accept industry practice for residential buildings in suburban areas and which outweighs the local concern for off-street parking.

10. Section 22: DESIGN REVIEW.

The ZBA grants a waiver of the requirement for separate review by the Design Review Board for this Project. The ZBA notes that subjects normally addressed during Design Review were reviewed as part of the ZBA's public hearing on the comprehensive permit application.

11. Section 22A: SIGNS.

The ZBA grants the waiver to authorize the sign shown on the Approved Plan dated November 18, 2019.

12. Section 22D: RETAINING WALLS.

The Applicant proposes to construct five retaining walls as shown on the Approved Plans. Retaining Walls Nos. 3, 4, and 5 are shown on the Approved Plans as retaining less than four feet of unbalanced fill, therefore no waivers of Section 22D are required or granted for these walls. Retaining Wall No. 2 is shown on the Approved Plans as a terraced wall of 4 feet or less in height that contains less than 4 feet of unbalanced fill, therefore no waiver of Section 22D is required or granted. The ZBA grants the waiver of Section 22D(D)(2) with respect to retaining wall No. 1, insofar as the construction of the wall requires a permit under the Zoning Bylaw. The ZBA notes that nothing contained in this waiver or in decision affects any applicable requirement of the Massachusetts Building Code.

13. Fees.

The Applicant requested on November 1, 2019 that the ZBA waive fees that would typically be charged in connection with permits for the affordable units. The ZBA denies this requested waiver on the grounds that these fees are reasonably required to provide for the Town's review of permit applications and construction-level plans, and for the inspection of construction. In addition, the Applicant has provided no evidence that such waiver is necessary to render the Project economic.

* * * * *

The ZBA grants only the specific waivers itemized above. If it appears after issuance of this Comprehensive Permit that any additional waiver is needed, the Applicant shall be required to seek the approval of the ZBA.

DRAFT

Conditions to the Comprehensive Permit

The ZBA's approval of the Comprehensive Permit for the Project is subject to the Applicant's and the Project's compliance with the following conditions. All requirements imposed by these conditions or this Comprehensive Permit shall be applicable to the Applicant, its successors and assigns, and all tenants and residents of the Project, regardless of whether the condition specifically identifies the Applicant or no entity as having responsibility for a particular condition.

General

1. This Permit authorizes the construction, use and occupancy of a project comprised of two residential buildings, one containing fifteen (15) dwelling units and a renovated existing residential structure containing two (2) dwelling units, along with associated parking and infrastructure as shown on the Approved Plans (listed and defined in Condition 2) below.
2. Except as may be further conditioned below, the Project shall be constructed in accordance with the following plans and written materials:

Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Last Revision or Final Issue Date
	Cover Sheet	4/16/19	Guerriere & Halnon, Inc.	11/15/19
Sheet 2 of 8	Existing Conditions Plan	4/16/19	Guerriere & Halnon, Inc.	07/24/19
Sheet 3 of 8	Site Development & Grading Plan	4/16/19	Guerriere & Halnon, Inc.	11/15/19
Sheet 4 of 8	Site Plan Details	4/16/19	Guerriere & Halnon, Inc.	9/30/19
Sheet 5 of 8	Site Plan Details	4/16/19	Guerriere & Halnon, Inc.	9/30/19
Sheet 6 of 8	Site Plan Details	4/16/19	Guerriere & Halnon, Inc.	9/30/19
Sheet 7 of 8	Landscape Plan	4/16/19	Guerriere & Halnon, Inc.	11/21/19
Sheet 8 of 8	Lighting Plan	4/16/19	Guerriere & Halnon, Inc.	11/21/19
Sheet 1 of 3	Retaining Wall Design Sheet 1	8/26/19	Eric T. Merluzzi, P.E.	11/7/19
Sheet 2 of 3	Retaining Wall Design Sheet 2	8/26/19	Eric T. Merluzzi, P.E.	11/7/19
Sheet 3 of 3	Retaining Wall Design Sheet 3	8/26/19	Eric T. Merluzzi, P.E.	11/7/19

Plan Number	Drawing Title	Date of Plan	Prepared By
EX-1.0	Existing Basement Plan and Proposed Basement Plan	11/18/19	Dixon Salo Architects Inc
EX-1.1	Existing First Floor Plan and Proposed First Floor Plan	12/5/19	Dixon Salo Architects Inc
EX-1.2	Existing Second Floor Plan and Proposed Second Floor Plan	11/18/19	Dixon Salo Architects Inc
EX-2.1	Existing Building Elevation and Proposed Building Elevation	11/18/19	Dixon Salo Architects Inc
EX-2.2	Existing Building Elevation and Proposed Building Elevation	11/18/19	Dixon Salo Architects Inc
EX-2.3	Existing Building Elevation and Proposed Building Elevation	11/18/19	Dixon Salo Architects Inc
EX-2.4	Existing Building Elevation and Proposed Building Elevation	11/18/19	Dixon Salo Architects Inc
EX-2.5	Existing Building Elevation and Proposed Building Elevation	11/18/19	Dixon Salo Architects Inc
A-1.0	Proposed Foundation Plan and Proposed Basement Plan	11/18/19	Dixon Salo Architects Inc
A-1.1	Proposed First Floor Plan and Proposed Second Floor Plan	11/18/19	Dixon Salo Architects Inc
A-1.2	Proposed Third Floor Plan and Proposed Roof Plan	11/18/19	Dixon Salo Architects Inc
A-2.1	Proposed Rear Elevation and Proposed Side Elevation	11/18/19	Dixon Salo Architects Inc

Plan Number	Drawing Title	Date of Plan	Prepared By
A-2.2	Proposed Front Elevation and Proposed Side Elevation	11/18/19	Dixon Salo Architects Inc
A-3.1	Proposed Building Section	11/18/19	Dixon Salo Architects Inc
A-3.2	Proposed Building Section	11/18/19	Dixon Salo Architects Inc
SK1.1	Sign Elevation	11/18/19	Dixon Salo Architects Inc

Stormwater Report, dated April 16, 2019, prepared by Guerriere & Halnon, Inc.

Draft Construction Management Plan, dated October 30, 2019

Memorandum to Casey Scavone– Redi-Rock Walls of New England with attachment (Retaining Wall Design Sheets 1-3), dated November 7, 2019, from Eric Merluzzi, P.E.

(collectively, the “Approved Plans”).

3. This Permit authorizes construction and use of seventeen (17) dwelling units (twelve (12) market rate units and five (5) Affordable Units, as defined below in Condition 5).
4. All dwelling units approved under this Comprehensive Permit shall be rental units.
5. At least twenty-five percent (25%) of the dwelling units in the Project shall be reserved in perpetuity as Low or Moderate Income Housing restricted for lease and occupancy by Income Eligible Households as these terms are defined in 760 CMR 56.02 (the “Affordable Units”). There shall be two (2) one bedroom Affordable Units, two (2) two bedroom Affordable Units, and one (1) three bedroom Affordable Unit. The initial rents of the Affordable Units shall be established by the Subsidizing Agency.
6. The Project shall contain a total of twenty-six (26) parking spaces, with twenty-four (24) surface parking spaces and two (2) parking spaces in the garage, as shown on the Approved Plans. The Applicant shall designate one parking space for each dwelling unit at all times. The Applicant may assign the remaining parking spaces at its discretion; provided, however, that (1) the Applicant shall not charge tenants for use of an additional parking space, (2) the Applicant shall not treat the tenants of the market rate units differently from the tenants of the Affordable Units in allocating the remaining spaces, and (3) at all times there shall be not less than four (4) dedicated visitor parking spaces.

7. There shall be no parking on the internal Site driveways, outside of designated parking areas shown on the Approved Plans, or on Burke Lane. Residents shall be informed of the parking restrictions upon execution of the lease.
8. The Applicant shall not use the basement of the 15-unit building for any purpose other than those depicted on the Approved Plans and for the storage of items used for management and maintenance of the Site. Tenants shall not be permitted to use the basement.
9. Except for construction related signs, as provided for below, the sign identifying the Project shall be as shown on the Approved Plans.
10. There shall be no pavement added to the Project beyond that which is depicted on the Approved Plans and there shall be no additional accessory structures added to the Project or to the Site other than what is shown on the Approved Plans.
11. All utilities to serve the Site shall be installed underground (with the exception of junction boxes, transformers and similar appurtenances) by the Applicant using methods standard to those installations. Utilities shall include electric service lines, gas service, telephone lines, water service lines, CATV lines, municipal conduit, and the like.
12. The water, wastewater, drainage, and stormwater management systems servicing the buildings shall be installed and tested in accordance with applicable Town standard requirements and protocols.
13. The stormwater management system design shall function consistent with the Approved Plans, as revised, and with the Stormwater Report, prepared by Dale Mackinnon, dated April 16, 2019.

Submission Requirements—Prior to Commencement of Any Construction Activity

14. No construction activities for the Project shall commence on the Site until the Applicant has submitted evidence that it is in good standing with the Corporations Division of the Secretary of the Commonwealth's Office.
15. No construction activities for the Project shall commence on the Site until the Applicant has obtained Final Approval of its Subsidizing Agency and presented evidence of same to the Building Inspector.
16. No construction activities for the Project shall commence on the Site until the Applicant has recorded at the Norfolk Registry of Deeds copies of this Comprehensive Permit and the Regulatory Agreement for the Project and delivered certified recorded copies of the Regulatory Agreement and Monitoring Services Agreement to the Building Inspector.
17. No construction activities for the Project shall commence on the Site until the Applicant has properly marked the limits of disturbance around the Site. The Building Inspector shall inspect the Site after such marking prior to any disturbance.

18. No construction activities for the Project shall commence on the Site until the Applicant has submitted to the Building Inspector, for review and approval, a revised Construction Management Plan and Construction Management Schedule (CMP) as necessary to conform to accepted industry practice and to address all construction-related conditions specifically set forth below in this Comprehensive Permit. The intent of the revised CMP is to require the Applicant to provide an additional level of detail in those areas where the CMP presented in the public hearing (as revised through October 30, 2019) is less than fully comprehensive, and to capture any changes that may occur between the issuance of this decision and the time for actual construction. Without limiting the foregoing, the revised CMP shall include:

- a. Critical path method construction schedule (or other such construction schedule as the Applicant may use to manage the construction) in order to provide guidance and facilitate inspections.
- b. Trucking plan, which shall specify planned truck routes, estimated volumes of any imported and exported materials, estimated truck trips and construction period mitigations measures consistent with the conditions set forth herein, including without limitation details and locations of crushed stone entrance pads, street sweeping protocols and dust control measures.
- c. Construction administration (hours of construction, deliveries, trash and debris removal).
- d. Communication (designated contacts on site).
- e. Controlled blasting (if required).
- f. Noise and dust control.
- g. Erosion control.
- h. Groundwater management, surface water management, and, if required, dewatering.
- i. Identification of existing underground utilities.
- j. Construction staging (staging areas, trailer locations, open storage areas, deliveries, truck holding locations), which shall be sufficient to ensure that there is no vehicle queuing, idling, parking or staging on Route 9, the Cedar Street eastbound on-ramp to Route 9, Burke Lane or any other streets under any circumstances.
- k. Traffic and parking during construction, including arrangements for off-site parking by all workers and shuttling to and from the off-site location (subject to the requirements otherwise contained herein).
- l. Location of trailers, dumpsters, and restrooms.

- m. Written consent of owner of 170-184 Worcester Street to allow construction parking in its lot.

19. The final CMP shall be included or incorporated by reference in the general construction contract and all sub-contracts, and compliance with its terms shall be a contract condition for all contractors working at the Site.

20. No construction activities shall commence for the Project until the Applicant has mailed, or otherwise provided, a flier to the current resident or property owner of each lot on Burke Lane. The flier shall (1) instruct neighbors on the manner in which they may contact the Applicant for Project related updates, and (2) provide information on how to sign up for either email or text message alerts, or both, from the Applicant regarding the Project. The Applicant shall communicate, to the extent possible, 48 hours in advance, with neighbors and town officials about major construction events such as construction start, demolition of the existing garage or events necessitating a police detail. The Applicant shall provide written notice to the Building Inspector that the fliers have been so provided.

Submission Requirements—Prior to Issuance of a Building Permit

21. No building permit shall issue until the Applicant has prepared subsequent detailed design development and construction drawings (including without limitation civil, structural, mechanical, electrical, landscaping and architectural plans) that have been revised in accordance with the terms of the Conditions of Approval, and said construction drawings have been reviewed and approved by the Building Inspector and others as specifically provided for below, solely for consistency with this Comprehensive Permit:

- a. If revised after issuance of this Comprehensive Permit, stormwater plans shall be submitted to the Town Engineer for review to confirm consistency of such plans with the Approved Plans;
- b. Detailed plans of the following utilities and services shall be prepared in accordance with all applicable regulations and requirements and shall be submitted for review and approval by the listed authorities prior to endorsement of the final plans:
 - 1. Water mains - Town of Wellesley DPW;
 - 2. Fire hydrant locations - Town of Wellesley Fire Chief;
 - 3. Primary and secondary electrical cables including distributions boxes and transformers – Wellesley Municipal Light Plant and Wiring Inspector;
 - 4. Telephone cables and street lighting located on the Site - Wiring Inspector.

The Applicant shall submit with the subsequent detailed design development and construction drawings provided for herein an itemization of all revisions to the

Approved Plans and a certification from the Engineers of Record that these plans fully incorporate all requirements of these conditions as set forth herein.

22. No building permit shall issue until the Applicant has arranged for the lot line between 3 Burke Lane and 15 Burke Lane to be accurately staked out on the ground and said stakes have been reviewed by the Building Inspector.

23. No building permit shall issue until the Applicant has provided a letter signed by the owner of 170-184 Worcester Street, authorizing the Applicant to use the Worcester Street property for the parking of up to ten (10) commercial vehicles during the construction of the Project, to the Building Inspector.

Conditions on Construction

24. Site work and construction shall be restricted to the hours between 7:00 am and 5:00 pm, Monday through Friday. In the event that the Applicant determines that construction work is required to be performed on Saturday, such work may be performed between the hours of 8:00 a.m. and 4:00p.m., provided that the Applicant notifies the Building Inspector at least three days prior to such work, and the Building Inspector, in consultation with the Wellesley Police Department, consents to such work. If, after completion of the building envelope, the Applicant determines that interior construction work is required to be completed outside the above stated hours, such work may be performed after three day prior notice to the Building Inspector and the Wellesley Police Department, provided that no such work will exceed the allowed noise levels specified below. There shall be no construction on Sundays, or on state or federal holidays. Additionally, construction vehicles and/or equipment shall not be started or operated prior to, or after the times stated herein. For this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; demolition and renovation of existing structures; and the erection of new structures.

25. There shall be no queuing, idling, parking or staging of construction vehicles, construction worker vehicles, or delivery vehicles on Burke Lane, Worcester Street, or any other street, under any circumstance. All construction vehicles shall park either on the Site or at 170-184 Worcester Street during construction.

26. All construction and delivery vehicles shall enter the Site from Route 9 and exit left from the Site back to Route 9. Signs shall be posted on site throughout construction prohibiting any vehicle from turning right onto Burke Lane when exiting the Site.

27. Insofar as practical, deliveries to the Site by tractor trailer (WB-50 or larger) shall be prohibited during the morning peak (7:00 am -9:00 am) and evening peak (4:00 pm-6:00 pm) traffic hours without the consent of the Wellesley Police Department. Insofar as practical, deliveries by smaller vehicles shall be made outside of the morning opening hour (7:30 am – 8:30 am) and the afternoon closing hour (2:30 pm – 3:30 pm) at the Fiske Elementary School.

28. Erosion control shall be employed on the Site to minimize erosion during construction and prevent sedimentation from entering the abutting public ways.
29. All retaining walls shall be constructed as shown on the Approved Plans (subject to review and approval by the Inspector of Building for compliance with the Massachusetts Building Code).
30. During construction, the stakes installed pursuant to Condition 22 shall remain in place from the issue of the building permit until issue of the first certificate of occupancy.
31. During construction, the Site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner.
32. The Applicant shall regularly remove construction trash and debris from the Site in accordance with good construction practice.
33. All potential safety hazards that may exist on the Site from time to time during the period of construction shall be adequately secured prior to the end of each workday.
34. The Applicant shall implement measures to ensure that noise from Project construction activities does not exceed permissible regulatory levels, including without limitation, DEP's noise regulations at 310 CMR 7.10 and noise pollution policy interpretation.
35. During construction the Applicant shall ensure that any dewatering activity required does not create (a) offsite issues or (b) problems for the proposed stormwater recharge system.
36. The Applicant shall be permitted to remove and/or replace earth from the Site incidental to the construction of the residential buildings, the construction of the drainage and underground infiltration system and the construction of the roadway and utility infrastructure as shown on the Approved Plans. Hours of operation for earth removal shall be 7:00 am - 5:00 pm, Monday through Friday; there shall be no hauling on Saturday or Sunday.
37. The Applicant may locate trailers on the Site during construction activity only. During construction all trailers, dumpsters, and portable restrooms shall be placed within the Site so as to not adversely impact the residential abutters.
38. The Applicant shall maintain all portions of any road used for construction access free of soil, mud or debris due to use by construction vehicles associated with the Project. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.
39. A temporary construction sign no greater than twenty (20) square feet in size may be erected on the Site at the time of issuance of a building permit. This sign shall list the Applicant's contact information, as well as information on how to sign up for

text and email alerts from the Applicant regarding Project updates. The sign shall be removed not later than the issue of the final certificate of occupancy.

40. No construction workers or contractors may park on Burke Lane, on any other street, during construction. Parking shall be restricted to the Site and 170-184 Worcester Street.
41. Any idling of vehicles on the Site shall be limited to five minutes or less in accordance with M.G.L. c.90, §16A, and the Applicant shall post clearly visible signage on the Site, to be maintained for the duration of the construction period, noting this requirement. As stated in Condition 27, there shall be no idling whatsoever on Burke Lane, any other street, or 170-184 Worcester Street.
42. Construction shall conform to all applicable local, state and federal laws and regulations regarding noise, vibration, dust and sedimentation, use and interference with Town roads.
43. The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation DEP's dust regulations at 310 CMR 7.09, as amended, as directed by the Building Inspector. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by Federal and State regulatory agencies.
44. The Applicant shall, upon advance notice, permit Town and ZBA members, agents, and representatives to observe and inspect the Site and construction progress until such time as the Project has been completed.
45. The Applicant shall notify the relevant Town departments of installation of utilities and infrastructure for inspections prior to backfilling.
46. Upon completion of the Project, soil material used as backfill for pipes, access drives, infiltration beds, and other underground drainage structures shall be certified by the Engineer of Record to the Building Inspector as meeting design specifications.
47. For the abatement of any asbestos containing material found on the Site, the Applicant shall comply with the 453 CMR 6.00, Removal, Containment or Encapsulation of Asbestos as promulgated by the Department of Labor and Workforce Development.
48. The Project shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.0 et. seq), except as may be waived, in accordance with applicable law and regulation.
49. Prior to issuance of the final certificate of occupancy, the Applicant shall:
 - a. Submit to the Department of Public Works (DPW), in hard copy stamped and signed by a registered professional engineer and in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all utilities, roadway, sidewalk and associated construction, and stormwater management systems. The file format shall be in accordance with the DPW's

- requirements. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered to the specifications of the DPW and shall use the Town of Wellesley datum elevation system.
- b. Submit to the Building Inspector as-built site plans for the Project with the Town of Wellesley datum elevation system, as opposed to the North American Vertical Datum of 1988, and adding a note to the at effect.
 - c. Submit a parking management plan and take part in the Traffic Demand Management Program noted in the Applicant's TIA dated March 14, 2019.
 - d. Complete all items on the Department of Public Works' site construction punch list.
 - e. Complete the construction on the sidewalk abutting 3 Burke Lane.

Legal Requirements

50. The Applicant has proposed, and the ZBA hereby requires, that the following common facilities and services of the Project, to the extent located on the Site, shall be and shall remain forever private, and that the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same:

- a. All internal site drives, walkways and parking areas;
- b. Stormwater management system, including the maintenance of catch basins, infiltrator units, bio-swales, underground infiltration structures and the like;
- c. Snow removal, including those areas where students wait for the bus, if located on the Site;
- d. Landscaping and landscape maintenance;
- e. Trash removal;
- f. Water system within the Site for both domestic use and fire protection, including hydrants; and
- h. Wastewater infrastructure within the Site.

The common facilities referred to above shall be maintained in perpetuity by the Applicant, which shall include such maintenance as to ensure that the sight lines are not obstructed, as provided for in Note 11 of the Site Plans for 3 Burke Lane in Wellesley, Massachusetts, dated April 16, 2019 and revised October 15, 2019.

The Applicant shall either arrange itself, or contract with a qualified management company, for the maintenance and repair all common areas and facilities, including the stormwater management system, wastewater disposal systems, landscaping, and other improvements within the Site.

51. The Applicant shall assure that the proper conditions are included in the unit leases to address the following:

- a. To the extent permitted by law, there shall be no conversion of interior space into additional bedrooms;
- b. Trash and recycling receptacles shall be stored inside the designated area shown on the Approved Plans except during collection;
- c. All Town bylaws and regulations concerning home-based businesses shall be applicable to the units;
- d. Pet waste shall be picked up on the Site and disposed of in the toilet or trash receptacle;
- e. The storage, use and disposal of any household hazardous wastes shall be properly and safely conducted; and
- f. There shall be no rentals of the market rate dwelling units for terms shorter than thirty (30) consecutive days; any rentals of affordable units shall comply with the terms of the Regulatory Agreement and Deed Rider.

52. All easements necessary for installation and operation of municipal services to the Site shall be granted by the Applicant where required by public utility companies or the Town.

53. All landscaping on the Site shall be as depicted in the landscaping plans dated July 26, 2019, and incorporated into the Approved Plans. The Applicant shall be responsible for replacing dead, dying and/or diseased plantings.

54. This Comprehensive Permit and Regulatory Agreement shall be recorded at the Norfolk Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of record and existing mortgages.

55. If at any time during construction, the Building Inspector, Town Engineer or the ZBA determines that a violation of the Approved Plans or this Comprehensive Permit has occurred, the Town, through the Building Inspector or the ZBA, shall notify the Applicant and the Applicant shall be given thirty (30) days (or lesser time period if in the sole opinion of the Town that said violation creates an emergency condition) to rectify said violation or construction activities shall be ordered to cease until the violation is corrected.

Affordability Requirements

56. Not less than twenty five percent (25%) of the total units in this Project shall be available in perpetuity for rent and occupancy by low and moderate income household as defined in DHCD's regulation (the "Affordable Units").

57. A Massachusetts Housing Finance Agency Regulatory Agreement for either Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or for the Housing Starts Program or a regulatory agreement with another qualifying subsidizing agency, shall be executed prior to the issuance of the Building Permit for the Project. This Regulatory Agreement shall set forth the terms and agreements relative to the rental of the Affordable Units in the Project. The Regulatory Agreement and Monitoring Services Agreement shall be submitted to the Building Inspector prior to its recording.

58. In fulfillment of Condition 57, it is further a requirement that the Project shall always be subject to a suitable regulatory agreement. Therefore prior to the expiration of the initial Regulatory Agreement with the Subsidizing Agency, the Applicant shall execute and record a successor Regulatory Agreement and Monitoring Services Agreement, to be approved by Town Counsel, for the period after the expiration of the term of the affordability restrictions imposed by the Subsidizing Agency, provided, however, that any successor Regulatory Agreement shall not extend the limited dividend period established in the initial Regulatory Agreement with the Subsidizing Agency. The Applicant shall enter into this second Regulatory Agreement and Monitoring Services Agreement with the Town and the Monitoring Agent, which shall continue the affordability restrictions imposed by the Subsidizing Agency and this Comprehensive Permit. Such agreement shall be consistent with the terms of this Comprehensive Permit. The Applicant shall retain the Town or a consultant designated by the Town as the Monitoring Agent for the Project for the period after the expiration of the term of the affordability restrictions imposed by the Subsidizing Agency. All costs associated with monitoring for consistency with the Regulatory Agreement shall be borne by the Applicant.

59. Upon the effectiveness of the successor regulatory agreement referred to above, rents for the Affordable Units shall continue to be restricted in accordance with the applicable rules, regulations, and guidelines of the Subsidizing Agency (or its successor agency) that existed prior to the expiration or termination of the previously effective regulatory agreement, as if it were still in force and effect. To the extent that the Subsidizing Agency (or its successor agency) has ceased to promulgate such applicable rules, regulations, and policies, then the rent for the Affordable Units shall be determined based on substitute regulations of a federal or state governmental agency providing subsidies for low or moderate income housing as shall be reasonably determined by the Applicant and the Town, in order to ensure the continued availability of the Affordable Units for the purposes set forth herein and in the Comprehensive Permit for the entire term of the agreement. Further, if M.G.L. c.40B (or its successor statute) still provides a mandate for municipalities to provide low or moderate income housing, the Applicant shall continue to operate and manage the Project as would permit the Project to be credited toward the Town's Subsidized Housing Inventory for purpose of Chapter 40B.

60. To the maximum extent permitted by law and applicable regulation, local preference for the occupancy of seventy percent (70%) of the Affordable Units shall be given to residents of the Town satisfying all applicable eligibility requirements. For the purpose of this condition, and subject to any legal requirements, “residents of the Town” shall, to the extent not otherwise prohibited or limited by the provisions of relevant governing regulations or requirements, include, but not be limited to, the following: current Wellesley residents; employees of the Town, Wellesley Public Schools; and members of the household of children attending the Wellesley Public Schools. This Condition shall be enforceable only to the extent the local preference requirement set forth herein is approved by the Subsidizing Agency based on information that the Town shall be responsible to provide in accordance with the requirements of DHCD set forth in its Chapter 40B Guidelines.

61. The Affordable Units shall have similar amenities as the market-rate units and the distribution of the Affordable Units throughout the Project shall be as approved by the Subsidizing Agency.

Miscellaneous

62. Enforcement of the conditions of this decision shall be by the Building Inspector or the ZBA to the extent permitted pursuant to the terms of M.G.L. c.40B, §§20-23 and 760 CMR 56.

63. The Applicant shall pay all permit application fees normally charged by the Town.

64. This Permit is granted to the Applicant and, prior to substantial completion of the Project, this Comprehensive Permit may not be transferred or assigned to any party without approval of the Subsidizing Agency and notice to the ZBA, as required by 760 CMR 56.05(12)(b). The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the Applicant and the successors and assigns of the Applicant, and the obligations contained herein shall run with the land. In the event that the Applicant sells, transfers, or assigns a portion or all of its interest in the Project, this Comprehensive Permit shall be binding upon the purchaser(s), transferee(s), or assignee(s) and any successor purchasers, transferees or assignees.

65. Any and all references to the “Applicant” herein shall include any authorized successors or assigns of the Applicant, including, but not limited to, all individual unit tenants. The terms, provisions and conditions of this Permit shall burden and benefit the successors and assigns of the Applicant with the same effect as if mentioned in each instance where the Applicant is named or referred to.

66. Any changes to the Project after the date of the Comprehensive Permit must be reviewed by the ZBA in accordance with the procedure set forth in 760 CMR 56.05(11).

67. The Applicant shall comply with all local regulations and bylaws as of the date of this Permit, except for those which are specifically waived in accordance with the Exceptions granted in “Waivers” section above or as otherwise expressly set forth in this Decision.

68. This Permit shall become void if the Applicant does not commence with development of the Project as approved herein within three (3) years of the date this Permit becomes final, in accordance with 760 CMR 56.05(12). Commencement of development shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under that permit. The ZBA may grant extensions for good cause.

69. All construction of the Project shall be completed within four (4) years from the date of issuance of the building permit unless a request is filed with, and approved by, the ZBA extending such time.

If any provision of this Comprehensive Permit or portion of such provision or the application thereof to any person or circumstances is for any reason held invalid or unenforceable, the remainder of this Comprehensive Permit (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

DRAFT

ZBA 2019-53
Petition of Cedar Place, LLC
2 and 3 Burke Lane, Wellesley

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE
PURSUANT
TO GENERAL LAWS, CHAPTER
40A,
SECTION 17, AND SHALL BE
FILED
WITHIN 20 DAYS AFTER THE
DATE
OF FILING OF THIS DECISION IN
THE
OFFICE OF THE TOWN CLERK.

J. Randolph Becker, Chairman

Walter Adams

Richard Seegel

ZBA 2019-53
Applicant Cedar Place, LLC
Address 2 and 3 Burke Lane, Wellesley

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
 Building Inspector