

DRAFT 12/15/14

**DECISION ON CHAPTER 40B COMPREHENSIVE PERMIT APPLICATION
THE RESIDENCES OF SOUTH BROOKLINE - THE RESIDENCES OF SOUTH
BROOKLINE, LLC
BROOKLINE, MASSACHUSETTS**

BOARD OF APPEALS CASE NO. _____

Date:

PROCEDURAL HISTORY

1. On or about November 26, 2013 the Residences of South Brookline, LLC (the “Applicant”), applied for a Comprehensive Permit, pursuant to G.L. Ch. 40B (the “Act”), to construct one hundred ninety-two (192) units of rental housing, on approximately 9.32 acres located in Hancock Village along Independence Drive in Brookline, Massachusetts (the “Project”). During the course of the hearing, the Applicant reduced the total acreage of the Project site (the “Site”) to approximately 8.60 acres and the number of units to one hundred sixty-one (161) .

2. The materials submitted by the Applicant in its application and during the public hearing include:

Comprehensive Permit Application (the “Application”)

Comprehensive Permit Plans for the Residences of South Brookline, Brookline, MA dated November 26, 2013, revised to _____, 2014, prepared by Stantec Planning and Landscape Architecture, PC.

Sheet Numbers and Titles

Site Plans

EX 100 – Overall Site Plan [revision needed]

EX 101 – Existing Conditions West

EX-102 – Existing Conditions Northeast

EX-103 – Existing Conditions Southeast

Exhibit 1 – Site Rendering

EX-104 – Rendered Site Plan Sketch Overlay – West

EX-105 – Rendered Site Plan Sketch Overlay - Northeast

EX-106 – Rendered Site Plan Sketch Overlay – Southeast

L101 – Height Calculations West (revised December 11, 2014) [confirm nos]

L102 – Height Calculations Northeast (revised December 11, 2014) [confirm nos]

L103 - Height Calculations Southeast (revised December 11, 2014) [confirm nos]

L104 – Open Space Plan West (revision needed; drawing titled wrong)

L105 – Open Space Plan West (revision needed; drawing titled wrong)
L106 – Open Space Plan West (revision needed; drawing titled wrong)
L107 – Lease Line Comparison West
L108 – Lease Line Comparison Northeast
L109 – Lease Line Comparison Southeast
L201 – Erosion Control Plan West
L202 – Erosion Control Plan Northeast
L203 – Erosion Control Plan Southeast
L301 – Layout Plan West
L302 – Layout Plan Northeast
L303 – Layout Plan Southeast
L401 – Grading Plan West
L402 – Grading Plan Northeast
L403 – Grading Plan Southeast
L501 – Composite Utility Plan West
L502 – Composite Utility Plan Northeast
L503 – Composite Utility Plan Southeast
L504 – Drainage Plan West
L505 – Drainage Plan Northeast
L506 – Drainage Plan Southeast
L507 – Water and Sewer Plan West
L508 – Water and Sewer Plan West
L509 – Water and Sewer Plan West
L601 – Landscape and Buffer Plan West
L602 – Landscape and Buffer Plan Northeast
L603 – Landscape and Buffer Plan Southeast
L604 – Planting Details
L701 – Lighting Plan West (submitted December 11, 2014)
L702 – Lighting Plan Northeast (submitted December 11, 2014)
L703 – Lighting Plan Southeast (submitted December 11, 2014)
L801 – Site Details 1
L802 – Site Details 2
L803 – Site Details 3
L804 – Utility Details 1
L805 – Utility Details 2
L806 – Utility Details 3
L807 – Utility Details 4
L808 – Basin Profiles
L809 – Basin Profiles
L810 – Basin Profiles
L901 – Site Sections
L902 – Site Sections
L903 – Site Sections
L904 – Site Sections
L905 – Site Sections

L906 – Site Sections
L907 – Site Sections
L908 – Site Sections
L909 – Site Sections
L910 – Site Sections
L911 – Site Sections

[“Site Plans”]

Architectural plans dated 12/5/14 by Lowe Associates Architects, Inc:

A-1 – Floor Plans 2-1/2 Story Infill Buildings Nos. 1, 2, 3, 6, 9, 10, 11
A-2 – Floor Plans 2-1/2 Story Infill Buildings No. 4
A-3 – Floor Plans 2-1/2 Story Infill Buildings No. 5
A-4 – Floor Plans 2-1/2 Story Infill Buildings Nos. 7, 8
A-5 – Section 2-1/2 Story Infill Buildings Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11
A-6 – Section 2-1/2 Story Infill Buildings No. 5
A-7 – Floor Plan – Apartment Building Lower Garage
A-8 – Floor Plan – Apartment Building Upper Level Garage
A-9 – Floor Plan – Apartment Building first floor
A-10 – Floor Plan – Apartment Building second and third floors
A-11 – Floor Plan – Apartment Building fourth floor
A-12 – Roof Plan – Apartment Building
A-13 – Section – Apartment Building
A-14 – Elevations - 2-1/2 Story Infill Buildings Nos. 1, 2, 3, 10
A-15 – Elevations - 2-1/2 Story Infill Buildings Nos. 6, 9, 11
A-16 – Elevations - 2-1/2 Story Infill Buildings No. 4
A-17 – Elevations - 2-1/2 Story Infill Buildings No. 5
A-18 – Elevations - 2-1/2 Story Infill Buildings Nos. 7, 8
A-19 – Elevations – Apartment Building

[“Architectural Plans”]

Stormwater Management Report prepared by Stantec Planning and Landscape Architecture, PC dated September 30, 2013, revised July 11, 2014, August 22, 2014, and _____ 2014 and Section 2.0 Peak Rate Attenuation, Section 9.0 Operation and Management Plan (“O+M” Plan) and Appendix J Operation and Management Log revised September 9, 2014 (“Stormwater Management Report”)

Technical Memorandum—Traffic Impact Assessment prepared by MDM Transportation Consultants, Inc. dated November 18, 2013, revised July 17, 2014. (“Traffic Report”)

3. The Brookline Board of Appeals (the “Board”) opened a duly advertised public hearing on January 16, 2014. On the following dates the Board continued the hearing and heard and/or deliberated on testimony: February 24, 2014, March 5, 2014, March 26, 2014, April 10,

2014, May 8, 2014, June 5, 2014, June 19, 2014, July 23, 2014, August 13, 2014, September 8, 2014, September 15, 2014, October 20, 2014, October 29, 2014, November 3, 2014, November 12, 2014, November 24, 2014, December 1, 2014, December 8, 2014, and December 22, 2014. All continuances beyond 180 days from January 16, 2014 were with the Applicant's written consent.

4. The Board conducted duly noticed site visits on January 24, 2014 and July 10, 2014.

5. On _____ the Board closed the public hearing.

6. The Board deliberated on the Application at public meetings held on _____ and on _____ voted to [grant] the Comprehensive Permit subject to the conditions listed below.

7. The following consultants assisted the Board in its review of the Application:

Engineering and Traffic: Kien Ho, PE, PTOE, Philip F Paradis, Jr., PE (and others)
Beta Group, Inc.
Norwood, MA

Site and Building Design Theodore Touloukian, AIA
Touloukian Touloukian, Inc.
Boston, MA

Special Counsel to Zoning Board Kathryn C. Murphy, Esq., Samuel Nagler, Esq.
Krokidas & Bluestein LLP
Boston, MA

MHP Fund:
(Ch. 40B Advisor) Edith M. Netter, Esq.
Edith M. Netter & Associates, P.C.
Waltham, MA

8. As required by the Act, the Board notified all local boards and commissions of the filing of the Application by sending a copy thereof to such local boards and commissions for their recommendations, all of which have been made a part of the record of these proceedings and have been taken into consideration by the Board in rendering its Decision.

FINDINGS

1. MassDevelopment has issued a Project Eligibility Letter dated October 8, 2013 which is attached as Exhibit 1.

2. According to the DHCD Subsidized Housing Inventory as defined in 760 CMR 56.02 as of November 26, 2013 the Town had 8% of its total housing stock available to low- and moderate-income families.

3. As revised, the Project includes one hundred sixty-one (161) rental units in twelve (12) buildings. Of these units, one hundred nine (109) units are in a 3- and 4-story building, and fifty-two (52) units are in the remaining eleven (11) buildings. The bedroom mix is as follows: twenty-three (23) four bedroom units, twenty-two (22) three-bedroom units, fifty-nine (59) two-bedroom units and fifty-seven (57) one-bedroom units . Additionally: the Project includes two hundred ninety-two (292) parking spaces of which ninety-nine (99) will be underground.

4. As proposed and as revised, the Project will be serviced by Town water and sewer.

5. MassDevelopment has determined that the Project is eligible for MassDevelopment Tax-Exempt Bond Financing Program (the “Program”) and as required by the Program at least twenty percent (20%) of the units in the Project will be restricted for rental by households earning at or below fifty (50%) percent of the Boston area median income adjusted for household size.

6. The Site abuts a single-family neighborhood running along Beverly and Russett roads to the north and Hancock Village to the south. As revised during the public hearing process, the Site includes 6.55 acres in the S-7 zoning district and 2.05 acres in the M-0.5 zoning district.

7. The Project includes four (4) Lots as defined in Article II, Section 2.12.5 of the Town of Brookline Zoning Bylaw (the “Zoning Bylaw”).

8. The Town has an ongoing, active program of promoting low- and moderate-income housing including inclusionary zoning; financial and technical assistance to non- and for-profit property owners and developers; technical and financial assistance to those seeking to purchase, rent and rehabilitate affordable homes; and other Chapter 40B affordable housing developments.

9. Throughout the public hearing process the public provided written and verbal testimony which the Board has carefully reviewed and taken into consideration in rendering its decision.

10. The conceptual project design is not generally appropriate for the Site as provided in 760 CMR 56.04(4)(c).

11. The Project, as conditioned below, is consistent with local needs, as that term is defined in 760 CMR 56.02, as required by the Act.

DECISION

Pursuant to the Act, the Board, after convening a public hearing and making findings of fact, [grants] a Comprehensive Permit to the Applicant for the construction of one hundred sixty-one (161) units of rental housing, with associated infrastructure improvements shown on the Site Plans, subject to the conditions listed below.

CONDITIONS:

1. The Project shall be constructed in conformance with the Site and Architectural Plans listed above in item 2 under Procedural History and this Decision. The final Site Plans, are subject to review and approval by the Planning Director. Certain sections of the final Site Plans are also subject to review by other Town officials as set forth in the Conditions below.

2. The Project shall include no more than one hundred sixty-one (161) units of rental housing in no more than twelve (12) buildings, which buildings are shown on the Site and the Architectural Plans and no more than 99 underground parking spaces and 193 surface parking spaces.

3. The total maximum number of bedrooms shall be three hundred thirty-three (333) and the maximum number of units and the maximum number of bedrooms shall be as listed in the following table:

Number of Units	Number of Bedrooms
57	One
59	Two
22	Three
23	Four

4. With respect to the Applicant’s December 11, 2014 request for Waivers from local bylaws and regulations, the Board approves those waivers listed in Attachment I.

5. Applicant shall implement and enforce a parking permit system to ensure that parking is restricted to tenants of the Project and their visitors. Parking under Building 12 (mid-rise apartment building) shall be assigned and restricted to tenants of Building 12. At least twenty-five (25) spaces shall be designated for visitors and “handicapped spaces” shall be designated as required by state law.

Housing

6. At least twenty percent (20%) of the units in the Project shall be reserved in perpetuity (and qualifying for the Subsidized Housing Inventory) for rental and occupancy by households earning at or below fifty (50%) percent of the Boston area median income adjusted for household size as defined by the U.S. Department of Housing and Urban Development pursuant to section 3 of 42 U.S.C. 1437 (the Housing Act of 1937) (“Affordable Units”).

7. In accordance with “Guidelines G.L.C. 40B Comprehensive Permit Projects Subsidized Housing Inventory,” MA Department of Housing and Community Development (the “Guidelines”) and to the extent allowed by law, preference for renting up to 70% (seventy percent) of the Affordable Units shall be given to residents of the Town of Brookline (the “Town”), which for this purpose is defined as anyone currently living in the Town (at the time of application to rent a unit), employees of businesses located in Town, Town employees, or households with children attending school in the Brookline School District. Subject to approval by MassDevelopment, the Applicant shall be responsible for managing the lottery to determine who may rent Affordable Units. The Applicant shall bear all Lottery Agent costs. The Applicant retains the responsibility to ensure that the lottery complies with all legal requirements.

8. If a lottery for determining who may rent an Affordable Unit is won by a handicapped person, the Applicant shall make a handicapped-accessible Affordable Unit available to that person.

9. All leases for the units in the Project shall include language stating that tenants may not use any rooms other than bedrooms for sleeping purposes. Living rooms or dining rooms may not be used as bedrooms.

10. The Applicant shall enter into a Permanent Restriction/Regulatory Agreement with the Town, in a form and substance acceptable to the Board and its counsel (the “Town Regulatory Agreement”), which shall be recorded with the Norfolk County Registry of Deeds prior to issuance of a building permit for the Project. The Town Regulatory Agreement shall (i) become effective if and when the Regulatory Agreement executed by the Subsidizing Agency and the Applicant, is terminated, expires or is no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) require that the Project shall remain a rental project in perpetuity; (iii) require that at least twenty percent (20%) of the units shall be Affordable Units in perpetuity; and (iv) limit the dividend or profit of the Applicant only if and as required under the Act.

11. When the Town Regulatory Agreement takes effect, the limited dividend requirement and affordability requirements (the latter which are set forth in Condition 6 above) shall be monitored and enforceable by the Town. From and after such time as the Town becomes responsible for monitoring the limited dividend and the affordability requirements, the Applicant shall provide the Town with a reasonable fee to cover the costs of such monitoring and enforcement.

Architecture

12. The buildings in the Project and units in the buildings shall conform to the Architectural Plans. Applicant shall submit the final Architectural Plans for review and approval by the Assistant Director for Regulatory Planning to determine whether they conform to the Architectural Plans listed in Item 2 under Procedural History and the Conditions of this Decision.

13. Mechanicals for Building 12 shall be installed on the roof and shall not be visible from homes abutting the Site. Structures or exterior architectural details such as air conditioning condensers, porches, decks may not be located in the zoning setback to Buildings 1 through 11 from Beverly and Russett roads.

Open Space and Landscaping

14. There shall be no additional structures or buildings or paved surfaces on the Site; however, additional areas designated for passive recreation are allowed.

15. Applicant shall execute and cause to be recorded prior to the issuance of a certificate of occupancy a restriction (the "Restriction") in favor of the Town, acting through its Board of Selectmen. The Restriction shall run in perpetuity and shall prohibit additional structures or buildings or paved surfaces on the Site and allowing passive recreation. The language shall be subject to review and approval by Town Counsel. Applicant shall cooperate with Town Counsel to assure to the greatest extent possible that such Restriction runs in perpetuity, including, if determined necessary by Town Counsel, seeking applicable state approval for the Restriction. The Restriction shall not prohibit minor revisions to the Project which do not affect the size, dimensions and locations of the buildings on the Site, increase the number of parking spaces on the Site, or, in any material respects, the external appearances of the buildings or the extent and location of paved surfaces.

16. Applicant shall demonstrate, to the satisfaction of the Assistant Director for Regulatory Planning, that (i) the structures of the Project and parking areas are adequately screened from view from streets and abutting and other nearby properties, (ii) there is an adequate plan for maintaining the plantings on the Site and (iii) three feet (3') of soil depth is present in all areas proposed for new plantings.

17. Applicant shall submit final landscaping plans, including plans showing which trees and rock outcroppings will be preserved and what measures will be taken to ensure their preservation to the Assistant Director for Regulatory Planning for review and approval to determine whether they conform to the Conditions of this Decision and the landscaping plans (sheets numbered ___ of the Site Plans listed in Item 2 under Procedural History).

18. All exterior lighting on the Site shall be installed and maintained so that no direct light or glare shines on any street or nearby property and headlight glare from vehicles entering

or leaving the Site or parking on the Site shall be shielded so as not to shine upon abutting or other nearby properties or streets.

Traffic and Vehicular and Pedestrian Circulation

19. The Site Plans which shall be subject to review and approval by the Director of Transportation and Engineering shall depict or indicate the following:

- (a) The proposed curbcut on the westbound side of Independence Drive (approximately 250 feet west of Beverly Road) shall provide access to the driveway on Lot W1 to Independence Drive.
- (b) There shall be a curbcut on the eastbound side of Independence Drive approximately 100 feet of Gerry Road that provides access to the driveway on Lot E1 to Independence Drive.
- (c) The width of the on-site portion of Asheville Road and the driveways connecting to Independence Drive shall be 23 feet.
- (d) There shall be STOP signs (R1-1 series) and STOP pavement line markings on the driveways connecting to Independence Drive.
- (e) There shall be sidewalks and marked crosswalks along (i) the driveways connecting to Independence Drive, (ii) from Lot W1 to the Baker School, (iii) between the front entrance of Building 9 and the surface parking lot north of Building 12, as indicated on Exhibit __, Parking/Pedestrian Route attached (iv) from the driveway of Building 9 continuing southeast to the front entrance of Building 10, where the Director of Transportation and Engineering determines appropriate and (v) from the on-site portion of Asheville Road at Building 12 to the sidewalks in Hancock Village.

20. Prior to Commencement of Construction the Applicant shall:

- (a) propose a re-design of Independence Drive (from the intersection of Beverly and Russett roads to the boundary between Brookline and Boston) to mitigate the adverse impacts of the Project primarily on pedestrian safety, which re-design shall be subject to review and approval by the Director of Transportation and Engineering and fund the cost of constructing (including all engineering, surveying and legal work) the improvements proposed as part of the re-design, which construction shall be administered by the Town.
- (b) seek review and approval by the Director of Transportation and Engineering of the on-site roadway construction materials it proposes to use. Where surfaces are impervious, at a minimum there shall be 4.5" of black top, 9" of

gravel, and a suitable sub-base that is not mud or peat. Where porous pavement will be used, at a minimum there shall 4" of porous asphalt pavement, 3" (min.) choker course, ¾"-1½" crushed stone reservoir course and 4" PVC perforated underdrain wrapped in geotextile fabric.

21. Prior to issuance of a building permit, the Applicant shall submit a Transportation Access Plan ("TAP") prepared in accordance with the *Transportation Access Plan Guidelines* of the Town (§5.09.3.c.6 of the Zoning Bylaw) that is subject to review and approval by the Director of Transportation and Engineering, with input from the Building Commissioner and the Planning Director. The TAP shall include measures (including physical improvements and other measures) to mitigate the impacts of the Project on Asheville (public portion), Russett, Bonad, and Beverly roads. The TAP shall include, but not be limited to, a parking layout plan and a tabulation of the location, numbers and users of different types of parking spaces. Mitigation measures shall include, but not be limited to, providing (i) employee and resident parking stickers or tags, (ii) fifty percent (50%) subsidies for the Applicant's employees' public transit costs, (iii) on-site sale of MBTA-passes; (iv) expanding existing shuttle service; (v) providing additional car-sharing spaces, (vi) charging a fee for rental of each parking space (separate from the unit rent), (vii) publicizing transit options, and (viii) providing on-site secure bicycle storage within buildings including two inverted U-racks per every four units (for Buildings 1-11) and one or more storage areas in the basement of Building 12 to accommodate at least fifty (50) bicycles.

22. As quickly as feasible and in no event later than thirty (30) days after the date the Decision is filed with the Town Clerk, Applicant shall take all steps necessary, including submitting a complete application to the appropriate agencies of the Commonwealth (with a copy to the Planning Director and the Director of Transportation and Engineering), to secure a curbcut to provide access and egress to and from VFW Parkway to the Site (the "VFW Curbcut"). Applicant shall include, as it and the Town deem desirable, the Town in its meetings with these agencies.

23. Upon approval of the VFW Curbcut, Applicant shall submit to the Board for its review and approval, revised site plans (including revised lease lot line and landscaping plans if necessary), which may show up to ten (10) additional parking spaces in the parking areas in Lots E2 and E3. Construction of the VFW Curbcut to the satisfaction of the Director of Transportation and Engineering and access/egress thereto is a prerequisite to use of the ten (10) additional parking spaces.

24. After sixty days (60) have elapsed since the Town has issued Certificates of Occupancy for all buildings and the Applicant certifies that at least 90% of the units are occupied, the Applicant shall prepare a traffic study for review and approval by the Director of Transportation and Engineering that evaluates the need for traffic calming and proposes traffic calming measures needed to mitigate the adverse impacts of the Project, if any, on Asheville (public portion), Russett, Bonad, and Beverly roads. Prior to issuance of a building permit, Applicant shall put sixty-four thousand dollars (\$64,000) into an escrow account to be used by the Town for traffic calming purposes, all or part of such funds to be returned in the event they

are not used for traffic calming purposes. The funds in this account shall be segregated from the funds in the escrow account referenced in Condition ____.

Fire safety

25. The Site circulation and the emergency access roadway system and signage shall be consistent with the Site Plans and the Conditions of this Decision and shall be subject to review and approval by the Brookline Fire Department.

26. Applicant shall provide emergency access and egress from the surface parking lot on Lot E2 between Independence Drive and Thornton Road (as shown on "Exhibit ___, Autoturn Analysis Brookline Ladder Truck) and an easement for such emergency access, which easement shall be subject to review and approval by Town Counsel.

27. Applicant shall install and maintain an Opticon gate on the boundary line of the Site where Grassmere Road becomes Thornton Road.

28. In those areas where Applicant proposes to use grass concrete paving (at the rear of Building 12, see Exhibit ___) and on the surface parking lot on Lot E1 providing access and egress onto Thornton Road for emergency vehicles (see Exhibit ___) the following applies:

- (a) Applicant's Engineer shall provide certify the load bearing capacity of the grass concrete and demonstrate to the satisfaction of the Fire Chief that the grass concrete will support the weight of emergency apparatus.
- (b) The final landscaping plans shall include visual clues around the grass concrete paving that indicate where emergency responders can drive their vehicles.
- (c) The areas shall be designated as Fire Lanes and restricted for use by emergency vehicles only.
- (d) Applicant shall maintain the Fire Lanes to ensure they are clear of snow, leaves, debris, or other obstacles.

29. Applicant shall show on the final site plans, which items below shall be subject to review and approval by the Fire Chief:

- (a) the number and location of fire hydrants,
- (b) enhanced NFPA 13 designed sprinkler systems in Buildings 1-12;
- (c) a Class I or III standpipe system in Building 12; and

- (d) direct Fire Department alarm notification for Buildings 1-12, designed in accordance with 527 CMR 20.07(3)(a).

Stormwater

- 30. Applicant shall submit final stormwater management plans for review and approval by the Director of Transportation and Engineering to ensure that:
 - (a) the final stormwater management plans are consistent with the Site Plans and the Stormwater Management Report and the Conditions of this Decision. The final stormwater management report shall include a breakdown of the cost estimates for the maintenance of individual components of the Plan.
 - (b) There is no standing water on the low-lying areas of the Site.
 - (c) The detail for the Bio-Retention Basin includes material types and depths.
 - (d) Porous pavement on the lot north of Asheville Road is at least thirty feet (30') from any residential structure.
 - (e) The depth of the crushed stone to the sub-grade is a minimum of thirty-one inches (31").
- 31. Applicant shall remove snow that cannot be stored on Site.
- 32. Where there is less than two feet (2') of cover over catch basin connections, ductile iron pipe shall be used.
- 33. Applicant shall take water quality samples at the intersections of the 27" and 18" drains in Independence Drive and the 27" and 42" drains in Gerry Road and at the outfall. If the results indicate cross-contamination between the sewer and the stormwater system, further investigation and mitigation shall be required as directed by the Commissioner of Public Works.

Water

- 34. The Applicant shall demonstrate to the satisfaction of the Fire Chief that for domestic and fire-fighting purposes there is adequate water flow and pressure for the Project.
- 35. Applicant shall submit, for review and approval by the Chief of Environmental Health, a mosquito control plan which shall include seasonal treatment of all storm drains with larvicide applied by a licensed Pest Control Operator, reports on which shall be submitted to the Health Department after each application.

Historic Preservation; Environmental Filings

36. Contemporaneously with sending or receiving any and all correspondence with the Massachusetts Historical Commission or the Massachusetts Secretary of Energy & Environmental Affairs concerning the Project, Applicant shall provide the Board and the Brookline Preservation Commission with copies.

Infrastructure

37. The following portions of the Project shall be and shall remain forever private and the Town shall not have, now or ever, any legal responsibility for their operation, maintenance or repair:

- (a) The on-site stormwater management system;
- (b) Interior roadways, driveways and parking areas;
- (c) Open space including landscaping and paths;
- (d) Snow plowing and removal;
- (e) All sewer, stormwater and water connections, lines and equipment required, from the public way to the buildings;
- (f) Lighting;
- (g) Trash disposal and recycling;
- (h) All site utilities including domestic water, fire protection, gas if applicable, electric, telephone, and cable system;

38. If the Town determines that it is necessary to hire consultants to assist with review of the building plans and proposed water, stormwater and wastewater system plans and plumbing, gas and electrical inspections, the Applicant shall pay for the cost of such review and inspection.

39. All water, stormwater and sewage facility designs shall be subject to review and approval by the Director of Transportation and Engineering.

40. During the construction of water, sewer and stormwater systems the Applicant's Project Engineer shall be on-site at least weekly to inspect the installation of all such systems and on a weekly basis shall certify in writing to the Director of Transportation and Engineering that all aspects of such systems were properly installed in accordance with approved plans.

Pre-Building Permit Review

41. Prior to issuance of a Building Permit the Applicant shall demonstrate to the satisfaction of the Building Commissioner that:

- (a) all Site Plans have been approved by the Planning Director and all Architectural and landscaping plans have been approved by the Assistant Director for Regulatory Planning.
- (b) the Chief of Environmental Health has determined that all rubbish generated from the Project will be handled and disposed of adequately and Applicant has provided the number of trash compactors and location and frequency of trash pick-up and a recycling plan demonstrating compliance with Town bylaws.
- (c) the Director of Transportation and Engineering has approved the TAP, the final stormwater management plans and report and all other items requiring review by the Director of Transportation and Engineering as listed in these Conditions.
- (d) it has paid all fees for consultant review of site, building and water, stormwater and wastewater plans to ensure the Project complies with this Decision and state and local requirements and consultant fees required by the Town for plumbing, electrical and gas inspections to ensure compliance with state and local requirements. Inspection fees incurred after building permit and not estimated prior to building permit shall be paid upon invoice.
- (e) it has initiated and participated in a pre-construction meeting to discuss the proposed construction schedule with its contractor and the Town, including but not limited to the Building, Public Works and Fire departments.
- (f) all required local, state and federal approvals and permits have been obtained and it has obtained Final Approval from MassDevelopment pursuant to 760 CMR 56.04(7).
- (g) Town Counsel has approved (i) an easement for emergency access and egress (referenced in Condition __) and (ii) a restriction on further development (referenced in Condition __) and Applicant has provided evidence of recording of same and (iii) a regulatory agreement/restriction and monitoring agreement as set forth in Condition __.
- (h) the directors of the Health Department and Transportation and Engineering and the Building Commissioner have approved the Construction Management Plan.
- (i) it has provided a performance guarantee in an amount proposed by Applicant and subject to review and approval by the Director of Transportation and Engineering and the Conservation Commission Administrator, which guarantee shall be posted to ensure completion of the infrastructure (as listed below) in

accordance with the Site Plans. The guarantee shall be in a form acceptable to Town Counsel. Items covered by the performance guarantee may include, but shall not be limited to:

as-built drawings;
sewers and utilities;
on-site construction of driveways, parking areas and sidewalks;
erosion control;
site screening and street trees;
stormwater management facilities;
site restoration; and
final site cleanup.

The performance guarantee will be reduced from time to time as work progresses and released upon approval by the Director of Transportation and Engineering.

Construction

42. During construction, the Applicant shall conform to all local, state, and federal laws regarding air quality, noise, vibration, dust, and blocking of any roads. The Applicant shall at all times use reasonable means to minimize inconvenience to residents in the general area. The Applicant shall provide the Police Department with the name and 24 hour telephone number for the project manager responsible for construction. The hours for operation of construction equipment, deliveries and personnel are limited to: Monday – Saturday (excluding Federal and State holidays): 7:00am to 5:00pm. Any noise or traffic complaints during these hours will be investigated by the appropriate Town agencies and departments.

43. “Commencement of Construction” includes clearing and grubbing (removing stumps and/or topsoil). Prior to Commencement of Construction and subject to approval by the Building Commissioner and the directors of the Transportation and Engineering and Health departments, the Applicant shall provide a Construction Management Plan that shall include but not be limited to: designation of truck routes (the condition of pavement surfaces of such routes before and after construction to be documented), a phasing plan prepared by Applicant’s contractor that includes provisions to protect the crushed stone reservoir course and the one porous asphalt pavement lot north of Asheville Road during construction, a survey of existing trees and measures to ensure tree protection during construction, limit of work areas, where construction vehicles, materials and equipment will be stored, parking hours and locations for construction workers’ vehicles, location of portable toilets, rodent control plan, dust/airborne particle control, security fencing, trash areas and construction trailer locations and earthwork calculations to determine earth and rock removal, the timetable for excavation and overall earthwork operation, and the number of necessary truck trips.

44. Prior to commencing ledge removal, Applicant shall demonstrate to the Director of Transportation and Engineering that ledge will be removed at least 4' below the Stormtank systems.

45. Applicant shall make all feasible efforts to ensure that the entire construction period from Commencement of Construction to the date of issuance of the final Certificate of Occupancy shall be no more than two years. In the event construction is not completed within two years, Applicant may seek an extension pursuant to 760 CMR 760 CMR 56.05(12)(c).

46. Applicant shall ensure that no erosion from the Site occurs that will cause deposition of soil or sediment upon adjacent properties or public ways. Prior to Commencement of Construction, Applicant shall provide plans showing the following:

- (a) catch basins, with both silt sacks and hay bales, including specific locations with the specific protection proposed for each catchbasin;
- (b) site perimeter controls and drainage structure inlet sediment protection measures;
- (c) a temporary sediment basin at the proposed Bio-retention Basin at Building 4;
- (d) construction drawings showing filter fabric at a temporary basin that is to be removed prior to the construction of the Bio-retention Basin;
- (e) specific location and construction details for the stabilized construction entrance
- (f) locations of stockpile areas on erosion control plans;
- (g) construction detail for erosion controls at perimeter of stockpiles.

47. In the event of any off-site erosion or deposition, Applicant shall be given written notice of the problem and shall take immediate measures to correct the situation. If for any reason a remedy cannot be implemented within one business day of notification, work on the Site shall cease and desist until such time as remedial measures are implemented, inspected, and approved by the Town.

48. In an effort to reduce noise levels, Applicant shall keep in optimum working order, through regular maintenance, any and all equipment that shall emanate sounds.

49. During construction, Applicant shall provide the Director of Transportation and Engineering with a monthly report outlining the status of the Project. The monthly reports shall detail areas of non-compliance with this Decision, if any, and actions taken to resolve these issues.

50. During construction Applicant may post on Site no more than one temporary construction and/or development sign for the Project, no greater than twenty square feet (20sf), with the design and location subject to review and approval by the Assistant Director for Regulatory Planning.

51. Prior to Commencement of Construction, Applicant shall provide the Director of Transportation and Engineering with a report and photographs of the condition of pavement surfaces along truck routes before and after construction to ensure construction traffic does not adversely affect the pavement.

52. Prior to Commencement of Construction, Applicant shall provide a blasting/drilling plan, for review and approval by the Fire Chief and the Building Commissioner, with the assistance of the Town's geotechnical blasting consultant, that includes methods to protect buildings, residents, pedestrians, and vehicles, and coordination with utility owners. All drilling and blasting pertaining to the Project and/or the Site, shall be in accordance with federal, state and local blasting permit laws and regulations and in accordance with the conditions contained therein as well as the conditions listed in Appendix ___.

53. Prior to Commencement of Construction, Applicant shall pay for the fees charged by a geotechnical consultant to be hired by the Town to review the blasting/drilling plan and oversee, on the Town's behalf, blasting and drilling performed by the Applicant on the Site.

Pre-Occupancy Permit Review

54. Prior to issuance of the Certificate of Occupancy for each phase of the Project, the Applicant shall submit an as-built plan stamped by a Registered Professional Engineer in Massachusetts that shows all construction, including all utilities, grading and other pertinent site features. This as-built plan shall be submitted to the Director of Transportation and Engineering and Building Commissioner for approval and shall be provided in paper form as well as in SDF (Standard Digital File) format. The Applicant shall also submit a letter from the Project architect and engineer stating that the building, landscaping and site layout comply with the Site Plans and the Architectural Plans and the Stormwater Management Report.

General

55. The provisions of this Comprehensive Permit shall be binding upon the heirs, successors and assigns of the Applicant and the obligations shall run with the land.

56. The Applicant shall pay the costs of all inspections (as may be required by the Building Commissioner) to ensure compliance with State and local regulations.

57. For purposes of this Decision (with the exception of Condition 63 below) (i) "commencement of construction" shall mean that the Applicant has initiated clearing and

grubbing (removal of stumps and topsoil) for construction of the Project and (ii) any reference to Town staff shall include a designee (either another staff member or a consultant) of that person.

58. If any part of this Decision is for any reason held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of any other portion of this Decision.

59. The Board shall retain jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.

60. Upon execution by the members of the Board, the Clerk of the Board is directed to file this Decision with the Town Clerk and send a copy to the Applicant by certified mail, return receipt requested.

61. Any person aggrieved by this Decision may appeal pursuant to § 21 of the Act.

62. Subsequent to the end of all applicable appeal periods and prior to the commencement of construction, the Applicant shall record this Decision in the Norfolk County Registry of Deeds and shall provide the Board and the Building Commissioner with a copy of this Decision endorsed with the applicable recording information.

63. This Comprehensive Permit shall expire if construction is not commenced within three years from the date this Decision becomes final as provided in 760 CMR 56.05(12)(c), and subject to the tolling provisions of 760 CMR 56.05(12)(c). For purposes of this paragraph only, *commencement of construction* is defined as the construction of the foundation of at least one of the Project's buildings. The Applicant may apply to the Board for extensions to this Comprehensive Permit in accordance with 760 CMR 56.05(12)(c).

64. If the Applicant revises any of the Plans (or other materials listed in Item 2 of Procedural History), it shall present the revised plans or other materials to the Board in accordance with 760 CMR 56.05(11).

65. This Comprehensive Permit may be transferred by the Applicant only upon compliance with the requirements of 760 CMR 56.05(12)(b).

66. For purposes of all Conditions herein referencing payment of fees by Applicant for assistance with plan review by consultants or certain inspections, to ensure the availability of funds to pay for outside assistance, Applicant shall deposit **ten thousand dollars** (\$10,000) in an interest-bearing escrow account. Should the account balance go below **one thousand dollars** \$1,000, upon notice by the Town the Applicant shall deposit **five thousand dollars** (\$5,000.00).

67. All utilities shall be underground.

68. If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously

prosecuting such a cure), then the Town may take one or more of the following steps: (i) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; (ii) have access to, and inspect, examine and make copies of, all of the books and records of the Applicant pertaining to the Project; or (iii) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.

RECORD OF VOTE

The following members of the Board vote as follows to grant a Comprehensive Permit subject to the above-stated conditions:

BROOKLINE BOARD OF APPEALS

By: _____

By: _____

By: _____

Wherefore a Comprehensive Permit, consistent with the conditions of this Decision, is granted to the Applicant.

Filed with the Town Clerk on ____, ____.

_____, Town Clerk

ATTACHMENT 1
[APPLICANT'S REVISED REQUESTED WAIVERS; BOARD TO REVIEW + DECIDE]

The following waivers are granted to the extent they are required for the Project as shown on the Site Plans as revised by the Conditions in this Decision:

DRAFT

**THE RESIDENCES OF SOUTH BROOKLINE
PROPOSED WAIVER LIST
December 11, 2014**

Brookline Zoning Bylaws						
Bylaw Section	Requirement	Applicable District(s)	Lot(s) Affected	Requested Waiver(s)	Details of Proposal Requiring Waiver	Waiver No.
§4.04	Limitation of Area of Accessory Uses	S-7; M-0.5	W, E1, E2, E3	Waiver to allow accessory uses (parking) within front and side setback areas.	The Development will include parking within required setback areas.	A
§4.07(6) – <i>Table of Use Regulations</i> and §4.08	Multifamily Uses	S-7	W, E1, E2, E3	Waiver to allow multifamily uses within the S-7 zoning district. Special permit and local affordability requirements inapplicable.	The Development is a multifamily housing development containing 12 buildings and 161 dwelling units, of which 10 “infill” buildings and 48 dwelling units will be located in the S-7 zoning district. The Comprehensive Permit, as may be granted by Zoning Board of Appeals, shall provide all local permits per M.G.L. c. 40B.	B
§4.07(22) and (55) – <i>Table of Use Regulations</i>	Residential Parking Areas	S-7; M-0.5	W, E1, E2, E3	Waivers to allow residential parking areas with more than three spaces as a secondary use for storage of vehicles of residents on other lots in excess of 1,400’ distant.	Except for the parking garage, which will be available to only residents of Building 12, the Development’s parking spaces will be available to all of its residents, regardless of whether such residents live on the same lot, and regardless of the distance between the relevant parking space and lot.	C
§5.03	Spacing of Residential Uses on the Same Lot	S-7	E3	Waiver to allow construction of two or more main residential buildings without providing front, side, and rear yards between each building.	As shown on the Waiver Plan, in one location on the Site, Building 9 will be located approximately 28’ from Building 10, within the required front yard of Building 10.	D
§5.04(1)	Residential Building on Rear of a Lot	S-7	E3	Waiver to allow residential buildings located on the rear of the lots to have less than an 80’ rear yard.	As shown on the Waiver Plan, in one location on the Site, Building 10 will be located approximately 28’ from Building 9, within the required rear yard of Building 9.	E
§5.09	Design Review	S-7; M-0.5	W, E1, E2, E3	Design Review requirements not applicable under M.G.L. c. 40B.	Comprehensive Permit, as may be granted by Zoning Board of Appeals, shall provide all local permits per M.G.L. c. 40B.	F

¹ Building 3 (containing four units) will technically be located within the portion of Lot W located within the M-0.5; however, except as expressly noted herein, for purposes of evaluating zoning compliance, the more restrictive use and dimensional regulations applicable in the S-7 have been applied to Building 3.

§5.10, §5.12, and Table 5.01	Minimum Lot Size, Minimum Lot Area Per Dwelling Unit	M-0.5	E2, W	Waiver from minimum lot size of 3,000 sf for first dwelling unit and 2,000 sf for each additional dwelling unit.	G
§5.20 and Table 5.01	Maximum FAR	S-7 M-0.5	E1, E2, W	Waiver from maximum ratios of gross floor area to lot area (0.5 in M-0.5 district and 0.35 in the S-7 District).	H
§5.30-5.32 and Table 5.01	Maximum Height of Buildings	S-7 M-0.5	W, E1, E2	Waiver from maximum building height limitations, as calculated pursuant to Sections 5.30-5.32. ²	I

On Lot E2, the Development will have a lot size of approximately 89,266 sf within the M-0.5 District, allowing 44 total units. On Lot W, the Development will have a lot size of approximately 8,270 sf within the M-0.5 District, allowing 3.64 total units. Within the M-0.5 District, the Development will include approximately 109 on Lot E2 and 4 units on Lot W. The entire development will have a lot size of approximately 379,933 sf, allowing a total of 189 units (161 units are proposed).

On Lot E1, the Development will have a FAR of approximately 0.51. On Lot E2, within the M-0.5 District, the Development will have an FAR of approximately 1.44. On Lot W, within the M-0.5 District, the Development will have an FAR of approximately 0.88. The entire Development will have an FAR of approximately 0.57.

On Lot W, Building 1 will have a height of approximately 206.83', which is approximately 6.2' over the allowed height of 200.63'. Building 2 will have a height of approximately 203.83', which is approximately 3.2' over the allowed height of 200.63'. Building 3 will have a height of approximately 199.83', which is approximately 0.57' over the allowed height of 199.26'. On Lot E1, Building 5 will have a height of approximately 199.33', which is approximately 0.93' over the allowed height of 198.40'. Building 6 will have a height of approximately 206.33', which is approximately 2.13' over the allowed height of 204.20'. Building 7 will have a height of approximately 211.13', which is approximately 7.13' over the allowed height of 204.20'. On Lot E2,

² See separate "Building Height Calculation Plan" prepared by Stantec dated December 11, 2014. All height measurements provided in this table represent the building's elevation above the Brookline Town Base Elevation.

§5.50 and Table 5.01	Minimum Front Yard ³	S-7, M-0.5	W, E1, E2, E3	Waiver from 30' minimum front yard requirement.	Building 12 will have a height of approximately 237.44', which is approximately 21.66' over the allowed height of 215.78'.	J
§5.55	Front Yard for Rear Lot	S-7	W	Waiver to allow less than required front yard depth for building located on rear lot.	Building 3 will be set back approximately 1' from lot line parallel to Independence Drive	K
§5.60, §5.62 and Table 5.01	Minimum Side Yard ³	M-0.5	E2	Waiver from minimum side yard requirement of 10 + L/10 (where "L" is the dimension of that portion of the wall required to be set back from the side lot line).	Minimum 10' setback provided for Building 12.	L
§5.70 and Table 5.01	Minimum Rear Yard ³	S-7, M-0.5	W, E1, E2, E3	Waiver from minimum side yard requirement of 20' and to allow retaining walls in excess of 7' in height within required side setback areas.	Minimum 2'4" setback provided for Building 1. Minimum 1' setback provided for Building 3. Minimum 4' provided for Building 7. Minimum 5' provided for Building 8. Minimum 6' setback provided for Building 9. Minimum 7'3" setback provided for Building 10. Minimum 10' setback provided for Building 11. Retaining walls within side yards of Buildings 9 and 12 may exceed 7' in height.	M
§5.91 and Table	Minimum	M-0.5	W, E2	Waiver from 30' minimum rear yard requirement.	Minimum 19' setback provided for Building 12.	N
§5.91 and Table	Minimum	S-7	E1, E2, E3, W	Waiver from 40' minimum rear yard requirement.	Minimum 1' setback provided for Building 3. Minimum 1' provided for Building 7. Minimum 1' provided for Building 8. Minimum 14' setback provided for Building 11.	O
§5.91 and Table	Minimum	M-0.5	W, E2	Waiver from the requirement	On Lot W, within the M-0.5 District, 0 sf of	P

³ Section 5.40 of the Zoning Bylaw allows for a less restrictive interpretation of minimum yard requirements where a structure is not parallel to the lot line; for the sake of clarity, all minimum yard requirements have been applied as if the buildings were parallel to lot lines.

5.01	Usable Open Space				that at least 30% of the gross floor area on each lot will be usable open space.	Usable Open Space will be provided. On Lot E2, within the M-0.5 District, 14,361 sf of Usable Open Space will be provided, which is approximately 11% of the gross floor area of the structure on Lot E2 in the M-0.5 District.	
§6.02, Paragraph 1, Table of Off-Street Parking Requirements	Number of Parking Spaces per Dwelling Unit	M-0.5	E2	Waiver from the requirement to provide 2.0 spaces per 1 and 2 bedroom unit and 2.3 per 3-bedroom units.	Waiver from the requirement to provide 2.0 spaces per 1 and 2 bedroom unit and 2.3 per 3-bedroom units.	On Lot E2 in the M-0.5 District, the Development will provide 1.26 parking spaces per 1 or 2-bedroom dwelling unit.	Q
§6.04.5.c.4	Parking area setback	S-7	W, E1, E2, E3	Waiver from the requirement to setback parking spaces from the front lot line a distance equal to the greater of the required building setback (30') or the average of the setbacks of buildings on adjacent lots on either side.	Waiver from the requirement to setback parking spaces from the front lot line a distance equal to the greater of the required building setback (30') or the average of the setbacks of buildings on adjacent lots on either side.	On all lots within the S-7, parking areas will contain more than six spaces, but will be set back less than 30' from front, side, and rear lot lines.	R

Brookline General Bylaws					
Bylaw Section	Requirement	Lot(s) Affected	Requested Waiver or Waiver	Details of Proposal Requiring Waiver	Waiver No.
§5.10.3.d	Neighborhood Conservation District	W, E1, E2, E3	Waiver from conservation district permit requirements and applicable design standards and restrictions.	Comprehensive Permit as may be granted by Zoning Board of Appeals shall provide all local permits per MGL c. 40B.	S

**THE RESIDENCES OF SOUTH BROOKLINE
PROPOSED PARKING WAIVER LIST
December 11, 2014**

Bylaw Section	Requirement	Applicable District(s)	Requested Waiver(s)	Details of Proposal Requiring Waiver	Waiver No.
LOT W 41 spaces required, 61 provided					
§4.04	Limitation of Area of Accessory Uses	S-7	Waiver to allow accessory uses (parking) within front and side yard setback areas.	Parking spaces will be provided within required setback areas; approximately 4' setback will be provided.	A
§4.07(22) and (55) – <i>Table of Use Regulations</i>	Residential Parking Areas	S-7	Waivers to allow residential parking areas as a secondary use with more than three spaces for storage of cars of residents on other lots and in excess of 1,400' distant.	The lot's parking spaces will be available to all residents within the Development, regardless of whether such residents live on the same lot, and regardless of the distance between the relevant parking space and lot.	C
§6.04.5.c.4	Parking area setback	S-7	Waiver from the requirement to setback parking spaces from the front lot line a distance equal to the greater of the required building setback (30') or the average of the setbacks of buildings on adjacent lots on either side.	The lot's parking areas will contain more than six spaces, but will be set back less than 30' feet from front, side, and rear lot lines.	R
LOT E1 32 spaces required, 41 provided					
§4.04	Limitation of Area of Accessory Uses	S-7	Waiver to allow accessory uses (parking) within front and side yard setback areas.	Parking spaces will be provided within required setback areas; approximately 0' setback will be provided.	A
§4.07(22) and (55) – <i>Table of Use Regulations</i>	Residential Parking Areas	S-7	Waivers to allow residential parking areas as a secondary use with more than three spaces for storage of cars of residents on other lots and in excess of 1,400' distant.	The lot's parking spaces will be available to all residents within the Development, regardless of whether such residents live on the same lot, and regardless of the distance between the relevant parking space and lot.	C
§6.04.5.c.4	Parking area setback	S-7	Waiver from the requirement to setback parking spaces from the front lot line a distance equal to the greater of the required building setback (30') or the average of the setbacks of buildings on adjacent lots on either side.	The lot's parking areas will contain more than six spaces, but will be set back less than 30' feet from front, side, and rear lot lines.	R

LOT E2					
226 spaces required, 142 provided (99 garage, 43 surface spaces)					
§4.04	Limitation of Area of Accessory Uses	S-7	Waiver to allow accessory uses (parking) within front and side yard setback areas.	Parking spaces will be provided within required setback areas; approximately 4' setback will be provided.	A
§4.07(22) and (55) – <i>Table of Use Regulations</i>	Residential Parking Areas	S-7; M-0.5	Waivers to allow residential parking areas as a secondary use with more than three spaces for storage of cars of residents on other lots and in excess of 1,400' distant.	Except for the garage spaces, which will be limited to the residents of Building 12, the lot's parking spaces will be available to all residents within the Development, regardless of whether such residents live on the same lot, and regardless of the distance between the relevant parking space and lot.	C
§6.02, Paragraph 1, Table of Off-Street Parking Requirements	Number of Parking Spaces per Dwelling Unit	M-0.5	Waiver from the requirement to provide 2.0 spaces per 1 and 2 bedroom unit and 2.3 per 3-bedroom units.	On Lot E2, the Development will provide 1.26 parking spaces per dwelling unit. ¹	Q
§6.04.5.c.4	Parking area setback	S-7	Waiver from the requirement to setback parking spaces from the front lot line a distance equal to the greater of the required building setback (30') or the average of the setbacks of buildings on adjacent lots on either side.	The lot's parking areas will contain more than six spaces, but will be set back less than 30' feet from front, side, and rear lot lines.	R
LOT E3					
24 spaces required, 48 provided					
§4.04	Limitation of Area of Accessory Uses	S-7	Waiver to allow accessory uses (parking) within front and side yard setback areas.	Parking spaces will be provided within required setback areas; approximately 4' setback will be provided.	A
§4.07(22) and (55) – <i>Table of Use Regulations</i>	Residential Parking Areas	S-7	Waivers to allow residential parking areas as a secondary use with more than three spaces for storage of cars of residents on other lots and in excess of	The lot's parking spaces will be available to all residents within the Development, regardless of whether such residents live on the same lot, and regardless of the distance between the relevant	C

¹ The Applicant requests waivers from §4.07(22) and (55) to allow the Applicant to provide the required number of parking spaces on other lots within the Development, which would, if granted, render this request unnecessary.

§6.04.5.c.4	Parking area setback	S-7	1,400' distant.	parking space and lot.	R
<p>Waiver from the requirement to setback parking spaces from the front lot line a distance equal to the greater of the required building setback (30') or the average of the setbacks of buildings on adjacent lots on either side.</p>		<p>The lot's parking areas will contain more than six spaces, but will be set back less than 30' feet from front, side, and rear lot lines.</p>			

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APPENDIX ____
DRILLING AND BLASTING

I. Drilling and Blasting

- a.) The Town's geotechnical blasting consultant (the "Consultant") shall review the qualifications of the Applicant's blasting contractor and Applicant's proposed blasting plan, check the calibration of the seismograph monitors, approve the location and installation of the seismograph monitors, provide ongoing review of blast vibration data, and shall consult with the Brookline Fire Department on an as-needed basis throughout the blasting period.
- b.) The Applicant shall hire its blasting contractor after review of its qualifications by the Consultant and the Brookline Fire Department.
- c.) Applicant shall conduct a pre-blast survey done in accordance with State law for the interior and exterior of all structures for properties that abut the site or are within 300 feet of anticipated blasting areas; except in the area of Building 12, where approximately 30 ft rock cuts are anticipated. Pre-Blast surveys shall be done for all structures within 500 ft of Building 12.
- d.) The Applicant's blasting contractor shall carry a minimum of \$5,000,000 in comprehensive liability insurance for damage to structures caused by underground explosion and collapse hazard, which coverage shall be in force for the duration of the blasting at the Site and shall be documented by Applicant.
- e.) The State blasting limits shall be observed, specifically peak particle velocity (PPV) of ground vibration at the nearest residences shall be kept within the USBM RI 8507, Appendix B Limits, which are incorporated in Board of Fire Prevention Regulations 527 CMR 13.09 (9) (b), Option 2, Figure (a).
- f.) The State blasting limits shall be observed, specifically airblast overpressure at the nearest residences shall be kept within 133 dB Peak (0.013 psi). This will minimize the possibility of window damage and also minimize annoyance due to rattling of windows and walls.
- g.) Not less than 72 hours prior to the commencement of any blasting, Applicant shall deliver by hand written notification to all properties that were entitled to a pre-blast survey under Paragraph c (above). Such notification shall state when the blasting period shall begin and shall include an explanation of the warning procedures for blasting including soundings. Applicant shall send another letter notifying the same parties that the blasting has been completed.
- h.) Any necessary closures of adjacent streets shall be kept to a minimum and shall be coordinated with the Police Department, Fire Department, and Engineering Department.

II. Additional Blasting Impact Mitigation Measures

In order to help minimize blasting impacts on adjacent residences the following additional controls shall be implemented:

a.) A detailed Blast Plan shall be provided by Applicant's Blasting Contractor to the Fire Department prior to blasting at the Site, detailing the planned procedures to be used at the Site limits closest to the nearest residences, and also detailing procedures to be used at the deepest rock cut areas in the area of the underground parking garage. The plan shall also provide details of a test blast program, consisting of a least three (3) small blasts, to be used to assess the planned procedures and adjust the scaled distance relationships at the site. The Blast Plan shall also contain a Blast Site Security Plan showing the locations of sentries to be provided prior to each blast round to keep unauthorized personnel from entering the blast area, and the means of communication from the blaster to the sentry to ensure the area is clear prior to detonation.

b.) Blast vibration monitoring shall be performed and reported for each round by a qualified firm under contract to the Applicant or Applicant's Blasting Contractor, at a minimum of five locations around the blast area. Monitoring reports shall be kept on file at the Site for review by the Fire Department and the Town's Blasting Contractor, and the Fire Department and the Town's Blasting Contractor shall be notified immediately if any vibrations exceed the regulatory limits.

c.) Drilling of blast holes and detonation of blast rounds shall be limited to between the hours of 9:00a.m to 4:00p.m., Monday through Friday, to minimize disturbance to the residents near the site.

d.) A system of warning signals shall be used by the Applicant's Blasting Contractor to warn personnel at the site and nearby residents prior to each blast. The warning signals shall be audible at least 500 feet from the blasting area.

e.) The following controls shall be in place to reduce the potential for flyrock:

i) Blasting mats shall be used to fully cover the blast area for every blast.

ii) Drillers logs shall be kept for all blast holes drilled, documenting open joints, seams and other anomalies; and the logs shall be reviewed by the blaster prior to each blast.

iii) Ammonium Nitrate Fuel Oil (ANFO) shall not be used on the Project and/or the Site.

iv) A videotape shall be taken of each blast round detonated so that small problems can be detected and corrected before they become big problems.

f.) Noise from the drilling operations shall be minimized through the use of appropriate mufflers and the use of water or other fluid to control dust at its source. Noise levels at the Site shall comply with the Town's Noise Bylaws. In addition, noise levels from rock drills at the nearest affected residential property shall be kept to 86 dBA. Noise levels from various

noise producing drilling and other equipment shall be periodically measured using Type I or II A-weighted sound level meter. Records of readings, if they exceed any noise specification, will be reported to appropriate Brookline departments, along with steps being taken to reduce the noise levels.

g.) Dust: Rock crushing and material mixing shall not be allowed at the site in order to reduce potential dust. The Contractor shall take appropriate steps to minimize dust generation during drilling of blast holes and other excavation and construction operations including, but not limited to: wetting down materials when appropriate, dust collectors on all drill rigs, stone mats as appropriate, and shall require covers to be placed over any open trucks transporting debris or fill and from the property. Dust levels at the property limits will be set to a maximum level of 150 micrograms per cubic meter of air (PM10, breathable particulate matter), based on National Ambient Air Quality Standards set by the Environmental Protection Agency (EPA). Levels will be measured and recorded continuously during construction at a minimum of five locations at the property line near the closest residences to construction activities, and dust producing construction activities

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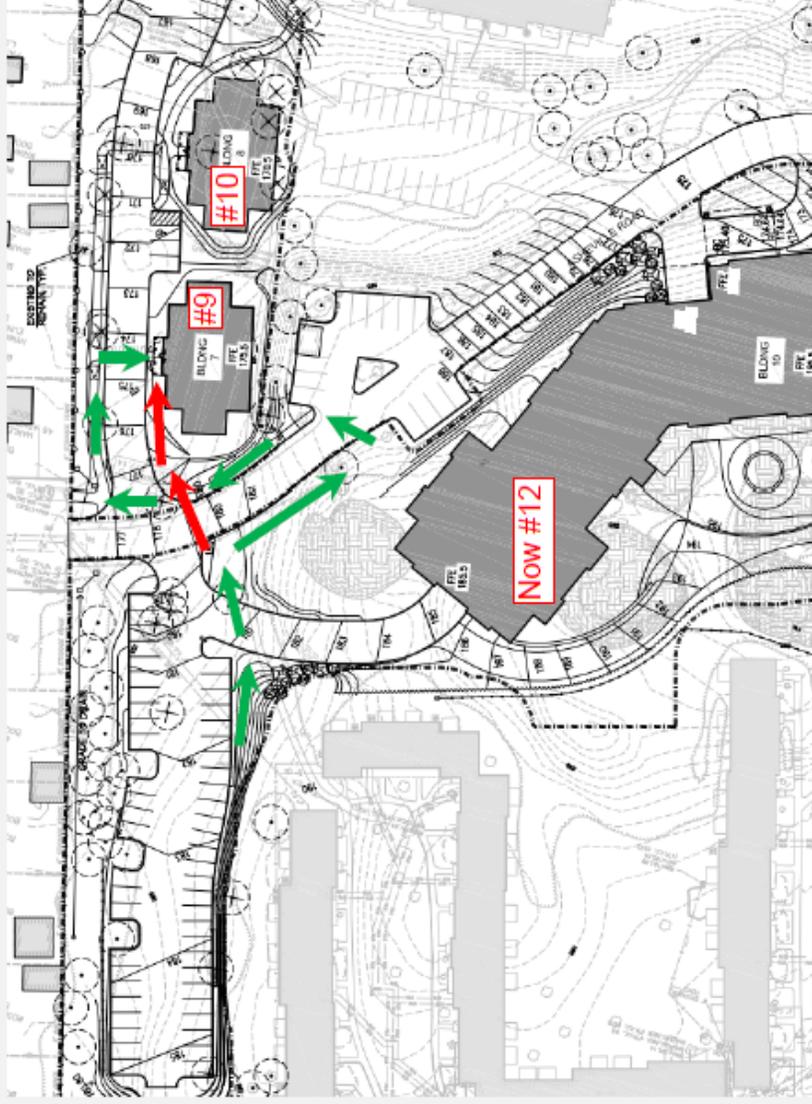
EXHIBIT 1
PROJECT ELIGIBILITY LETTER

DRAFT

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Site Access, Parking and Loading

- ▶ Parking / Pedestrian Route to Bldg. 7 Now Bldg 9



Red arrows indicate BETA's recommendation for more direct pedestrian path

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Exhibit 3 Fire Lane at Rear of Building 12 (North Elevation)

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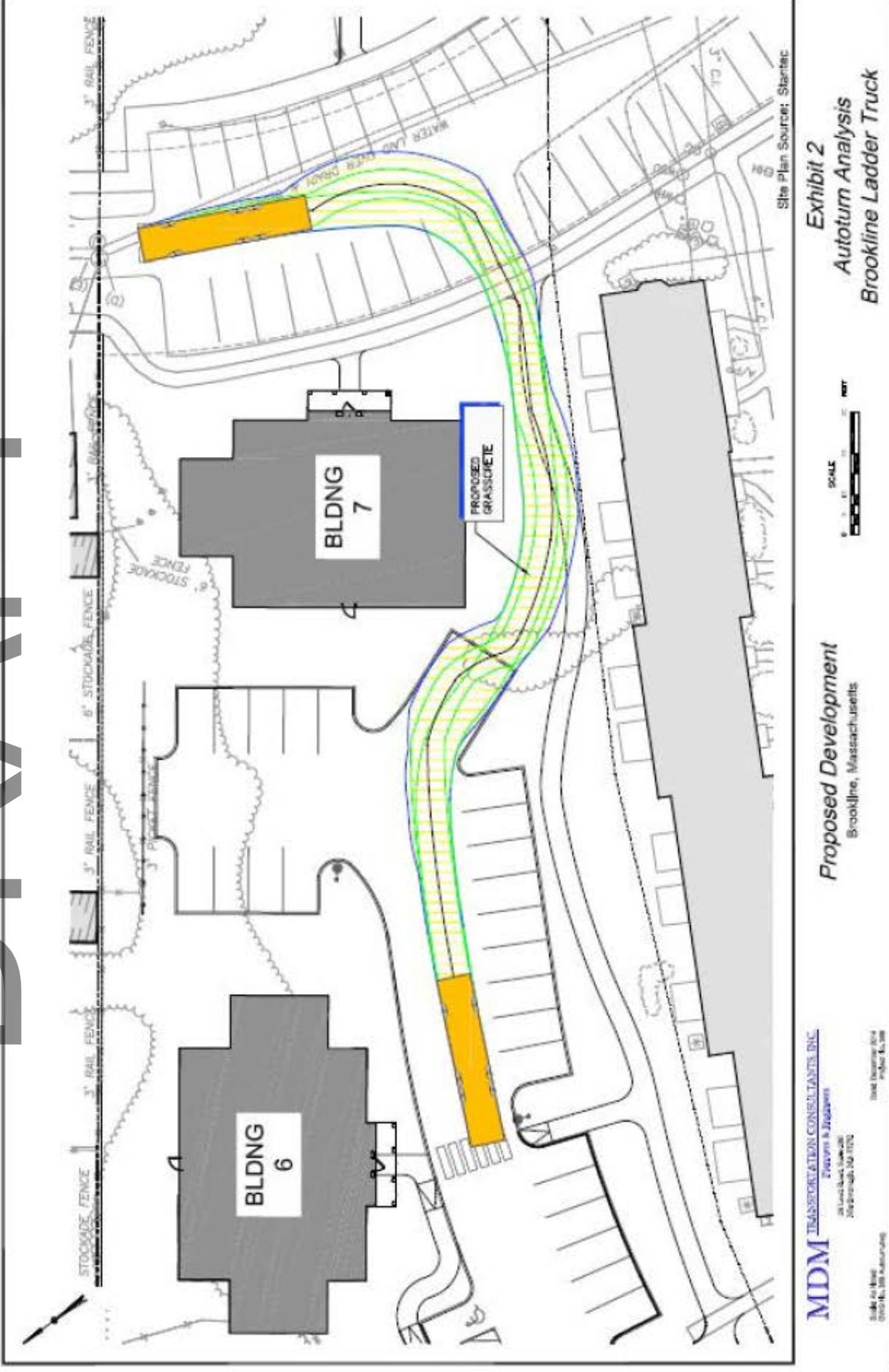


Exhibit 4 Fire Lane: Emergency Access to and Egress from Lot E2 to Thornton Road