

TOWN OF BELMONT
DESIGN AND SITE PLAN REVIEW APPROVAL

PLANNING BOARD
DRAFT #4 – 04-04-2022

CASE NO. 21-08

APPLICANT: Northland Residential Corporation

PROPERTY: 115 Mill Street

DATE OF PUBLIC HEARINGS: May 18, 2021
Continued: June 1, 2021, June 15, 2021, June 22, 2021, July 6, 2021, July 20, 2021, August 3, 2021, August 17, 2021, September 9, 2021, September 21, 2021, October 5, 2021, October 19, 2021, November 2, 2021, November 16, 2021, December 7, 2021, December 21, 2021, January 4, 2022, January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, April 7, 2022.

MEMBERS SITTING: Stephen Pinkerton, Chair, Matthew Lowrie, Vice-Chair, Thayer Donham, Edmund Starzec, Karl Haglund, Renee Guo (Associate)

MEMBERS VOTING: Stephen Pinkerton, Chair, Matthew Lowrie, Vice-Chair, Thayer Donham, Edmund Starzec, Karl Haglund, and Renee Guo.

1. Introduction

This matter came before the Planning Board (“Board”) of the Town of Belmont (“Town”) acting in its capacity as the Design and Site Plan Review (“DSPR”) Approval Granting Authority under 6B and Section 7.3 of the Zoning By-Law of the Town of Belmont, Massachusetts (“ZBL”) and Chapter 40A of the Massachusetts General Law (“Zoning Act”). The (“Applicant”), Northland Residential Corporation, represented by John Dawley, President and CEO, requested DSPR by the Board for an application for a parcel of land known as Zone 3 of the McLean District, pursuant to §6B of the ZBL. The Applicant requested the right to construct 38 for-sale units, to restore and renovate the Samuel Eliot Memorial Chapel into 2 for-sale units, and to construct 112 multi-family rental units and associated infrastructure.

On March 21, 2022, the Applicant submitted a final set of plans and related materials (see Appendix A; the “Final Permit Documents”). This Board accepts the amendments to the original application that this represents, and the Board’s approval is based on those materials. The Final Permit Documents, together with the conditions imposed herein the (“Conditions”), will be referred to as the (“Project.”)

As outlined below, the Board approves the Project. The vote was taken after proper notification of abutters, posting of the hearing notice at Town Hall, and a public hearing on the dates set forth above. This Approval is binding on all successors and assigns and runs with the land.

2. Record Before the Board:

2.1 Written Submissions:

Written materials received and considered by the Board are listed in Appendix B.

2.2 Meetings and Eligibility to Vote:

The Board held a duly advertised public hearing conducted via ZOOM videoconference (in connection with current restrictions regarding social distancing in connection with COVID-19) on May 18, 2021 and it was continued to June 1, 2021, June 15, 2021 (no deliberation), June 22, 2021, July 6, 2021, July 20, 2021, August 3, 2021, August 17, 2021 (no deliberation), September 9, 2021, September 21, 2021, October 5, 2021, October 19, 2021, November 2, 2021, November 16, 2021, December 7, 2021, December 21, 2021, January 4, 2022, January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, and April 7, 2022. The Board held a site walk on May 25, 2021 with the development team and members of the public (no deliberation). Ms. Guo was absent at the July 6, 2021 meeting session but she reviewed the recording and certified by submitting a Mullin Rule Certification. Mr. Haglund was absent at the August 3, 2021 meeting session but he reviewed the recording and certified by submitting a Mullin Rule Certification. Mr. Lowrie was absent at the September 21, 2021 meeting session but he reviewed the recording and certified by submitting a Mullin Rule Certification. Mr. Pinkerton was absent at the November 16, 2021 meeting session but he reviewed the recording and certified by submitting a Mullin Rule Certification. Mr. Starzec was absent for portions of the February 16, 2022 meeting session but he reviewed the recording and certified by submitting a Mullin Rule Certification. Mr. Haglund was also absent at the December 21, 2021 public hearing and so his vote on the final decision is advisory. Renee Guo was elevated as a voting member to vote in Mr. Haglund's place. The public hearing was closed at the February 1, 2022 continued public hearing, with the public record being closed at Tuesday February 8, 2022 4:00 pm for the submission of any additional comments from the public, excluding staff and Applicant correspondence. John Dawley from Northland Residential Corporation, Alan Aukeman from Ryan Associates, Curtis Quitzau of VHB, Giles Ham of Vanasse Associates, Edward Bradford from The Architectural Team, and Michael Breau from The Architectural Team presented the Project to the Board. The Board held deliberative sessions on March 1, 2022, March 15, 2022, and April 7, 2022, in compliance with Open Meeting Law.

On April 7, 2022, the Board deliberated on the Applicant's request for DSPR Approval under ZBL Sections 6B and 7.3.2 a).

On motion duly made and seconded, **the Board voted 6-0 to approve the Applicant's request for a Design and Site Plan Review at 115 Mill Street located in a McLean District Zone 3 Overlay District after making the following findings and with the following conditions:**

3. Findings and Waivers

The present application is made under Section 6B – MDZ3OD of the ZBL. The proposed development is subject to the requirements of DSPR in accordance with ZBL Section 6B.6. The Board finds as follows.

3.1 The Purposes of the Section 6B McLean District Zone 3 Overlay District (ZBL 6B.1.1)

The Project meets the purposes set forth in ZBL Section 6.B.1.1, for the reasons outlined below.

- a. MDZ3OD consists of two Subdistricts: A and B. Subdistrict A permits the development of Age-Restricted Townhouse Dwelling Units and Subdistrict B permits the development of both Age – Restricted and Non-Age Restricted Multi-Family Rental Dwelling Units.
- b. The Project proposes 38 for-sale units and the preservation, restoration and renovation of the Samuel Eliot Memorial Chapel into 2 for-sale units in Subdistrict A and a total of 112 multi-family rental dwelling in Subdistrict B as provided below.
- c. Fifteen percent of the units in Subdistrict A and twenty-five percent of the units in Subdistrict B will be affordable. The Belmont Housing Trust, "BHT" evaluated the Project and advised the Board that

the Trust was thrilled with the Project. Further discussion and findings about the affordability provisions are included below.

- d. The Board finds that the Project provides for the housing needs of the Town by making provision for housing to be occupied by a variety of households who otherwise would not have such housing opportunities within the Town. (ZBL 6.B.1.1 a)); provides added diversity of housing types attractive to a variety of households and income eligibility (ZBL 6.B.1.1 b)); and provides for the development of affordable housing for income-eligible households and seniors. (ZBL 6.B.1.1 c))
- e. All of the proposed buildings in the Project will be LEED Silver certifiable and the Applicant will provide self-certification documentation.. The Project incorporates sustainability measures that include all-electric heating, cooling, and ventilation systems, and (in Subdistrict A) induction stove tops. All buildings shall be solar photovoltaic (PV) ready. The Board further finds that the Applicant's responses to the Belmont Energy Committee ("BEC"), included in the Final Permit Documents and incorporated into corresponding Conditions below, adequately address the 6B.5.7 Environmental Design also as set out below. The Project therefore promotes low-impact, energy-efficient development. (ZBL 6.B.1.1 d))
- f. The Project was designed and amended based on extensive feedback from Board members, architects, the Town's Peer Review Consultants, the Historic District Commission ("HDC"), the Land Management Committee ("LMC"), the BEC, the BHT, the Fire and Police Departments, as well as from immediate abutters and other members of the public. The Board further finds that the Applicant's responses to the BEC, included in the Final Permit Documents are incorporated into Conditions below. The Samuel Eliot Memorial Chapel is being preserved. The units are designed to fit in with the existing buildings within the McLean District, including in Zone 2. Site lines to historic structures are adequately preserved and are in fact superior to the previously permitted Freedom Commons project. As discussed below, the Project meets the Design Guidelines of ZBL Section 6B.5.2 which "are intended to promote high quality sustainable development." The HDC extensively reviewed and approved the project, subject to conditions that are incorporated into this approval. The LMC also reviewed and approved, subject to conditions also incorporated into this approval. Based on the materials in the Final Permit Documents, the 3D virtual fly-through, and the input of the Peer Review Consultants and the cited Belmont committees, the Board finds that the Project represents high quality site planning, architecture, and landscape design that is consistent with the distinct visual character, historical significance, and identity of the McLean District (ZBL 6.B.1.1 e)). The Project also uses context-sensitive design and creative site planning in the construction of new buildings and reuse of existing buildings. (ZBL 6.B.1.1 f))

3.2 Compliance with Use Regulations (ZBL Section 6B.2)

3.2.1 Subdistrict A

The Project complies with the provisions of ZBL Section 6B.2.1. The proposed deed restrictions contained in the master deed in the Final Permit Documents have been reviewed by Town Counsel and satisfy the requirements of this section. The number of units is within the limits set forth in the ZBL.

3.2.2 Subdistrict B

The Final Permit Documents comply with the provisions of ZBL Section 6B.2.2 concerning number of units and existing access. The retained and reused Samuel Eliot Memorial Chapel will allow for the creation of two (2) Bonus Units in Subdistrict B, as permitted by the ZBL 6B.2.4 and, therefore, the maximum number of units in Subdistrict B will be 112.

6B2.2 c) states that:

permissible dwellings shall be two apartment buildings with associated underground or surface parking. An apartment building is a multi-story, multi-family building designed or intended or used as the home or residence of three or more households, each in a separate dwelling unit, living independently of each other and which have a common right in halls, stairways, parking, and common area amenities.

In the original conceptual plan considered at the time Section 6B of the ZBL was drafted and approved, two four (4) story apartment buildings running parallel to each other in a north to south orientation were depicted. In the DSPR application, a different configuration is proposed, having what are labeled as Building 100-A, 100-B and Building 200. The revised plan calls for a single 3 story building labeled as Building 100-A and 100-B (also referred to together as “Building 100”) connected by a glass atrium. Based on assessments by the Applicant’s architect and the Town’s architectural peer review consultant pursuant to Mass State Building Codes, Building 100, as designed, meets the definition of a single building.

All of the new structures are within the ZBL limits and are in fact lower in height and number of floors than contemplated at the time Section 6B of the ZBL was drafted and adopted (4 floors at a height of 64.75 feet reduced to three floors at a height of 55 feet). The overall effect is to materially reduce the apparent mass of the overall structures and the Planning Board does not see any material negative effect with the design and layout of the proposed buildings. Indeed, forcing Buildings 100-A and 100-B to have a solid wall between them (to make it appear more like a single building) would address the argument that it is two buildings, but the only effect would be to make the overall project bulkier, i.e., worse for massing and reducing walkability of the site.

ZBL Section 6B.6.5 permits the Board to waive compliance with a provision of the ZBL if “the Planning Board determines that granting such waiver will result in an overall improved, feasible design in accordance with the purposes and design guidelines provided in this Section 6B”. The Board so finds. To the extent necessary and as allowed under 6B.6.5, a waiver to ZBL Section 6B.2.2 c) is granted, to allow what the Project labels as Building 100-A, 100-B and 200 in Subdistrict B.

Conditions concerning age restrictions and compliance with the Fair Housing Act are in the Conditions section below and meet the requirements of ZBL Section 6B2.

3.3 Compliance with Performance and Design Standards (ZBL Section 6B.3)

The Board received the representations of the Applicant’s architects, a report from the Town’s Peer Review architect and substantial written and verbal public input and testimony. The Project meets each of the requirements of ZBL Section 6B.3, with the possible exception(s) detailed below. (Age restrictions in Subdistrict B are addressed in the Conditions.).

3.3.1 Gross Floor Area in Subdistrict A

ZBL Section 6B.3 b) states:

No townhouse dwelling unit shall exceed 3,600 square feet of Gross Floor Area, inclusive of basement area whether or not finished but exclusive of unfinished garage, unfinished attic area and exterior porch or deck areas”) and the number of parking spaces.

As shown in the Final Permit Documents, the total proposed number of new units, is below the maximum allowed by two (2) units (38 instead of 40). The Applicant also proposed to rehabilitate the existing Samuel Eliot Memorial Chapel (“Chapel”) to include two additional units. Fifteen of the proposed new units exceed the maximum gross square footage limitation of 3,600 square feet limit.

This disparity is due to the topography of the site, which is steeply sloped from north to south. Units oriented along the slope that exceed the Gross Floor Area (“GFA”) limit do so because of the creation of uninhabitable space, which when included in the measurement of GFA exceeds the per unit limit. Compliance could be achieved by having portions of the lowest floor, that have no windows, built as crawl spaces. Such a configuration would have no effect on the overall apparent massing of the structures, which is the purpose of the limit on GFA. Moreover, any disparity in overall interior size of units is addressed by a deed restriction contained in the proposed Master Deed of the Subdistrict A condominium, which limits the use of the space. Finally, the overall proposed GFA of 120,030 sf is less than the permitted 144,000 sf GFA limits for new units in Subdistrict A, even if the per unit limit is exceeded for some of the units. As a result, the overall massing of Subdistrict A is less than what the ZBL contemplated and the per-unit exception is essentially for space that is below grade. The project, as a whole, is well below the massing that Section 6B contemplates.

Accordingly, the Board finds that waiver will result in an overall improved, feasible design in accordance with the purposes and design guidelines provided in ZBL Section 6B. As permitted under Section 6B.6.5 of the ZBL, a waiver to ZBL Section 6B.3 b) is granted, to permit GFA of more than 3,600 square feet for 15 units, as shown in the Final Permit Documents.

3.3.2 Parking spaces

In Subdistrict A, the Project includes 78 interior parking spaces and 2 surface spaces assigned to individual units and 12 surface parking spaces for guests for a total of 92 parking spaces. In Subdistrict B, the Project includes 99 garaged and 60 surface parking spaces for a total of 159 parking spaces. These numbers are at or under the maximum allowable under ZBL Section 6B.3.

During the public hearing, however, a question was raised about whether the driveway area of each unit in Subdistrict A should be accounted for as additional parking spaces. Each proposed driveway leads to, and is no wider than, a corresponding garage that has spaces that are included in the above numbers.

The ZBL defines parking space as:

Parking Space - An area in a building or on a lot available for parking one automobile, exclusive of passageways and driveways appurtenant thereto, and having free and unimpeded access to a street over unobstructed passageways or driveways.

Driveways are specifically excluded.

Accordingly, the Board concludes that the Project complies with the limits on parking spaces provided for in ZBL Section 6B.3.

The Board further finds that the driveways in the Project are not unduly long and are consistent with the dimension, size and use of driveways of the other residential subdistricts of the McLean Zoning Districts.

As such, the Board finds that, to the extent waiver is needed, a waiver will result in an overall improved, feasible design in accordance with the purposes and design guidelines provided in ZBL Section 6B. As allowed under 6B.6.5 and to the extent necessary, a waiver to ZBL Section 6B.3.1 g) is granted, to permit that the Subdistrict A driveways and garage parking as shown in the Final Permit Documents.

3.4 Compliance with Affordability Requirements (ZBL Section 6B.4)

In Subdistrict A, fifteen percent of the total unit count shall be affordable units in accordance with the Conditions below. The Project includes one – 1 bedroom unit, fifteen – 2 bedroom units, and twenty-four – 3 bedroom units. The proposed affordable units are one – 1 bedroom, four – 2 bedroom, and one – 3 bedroom units. The Project, including the deed restrictions (which have been reviewed by Town Counsel) and the designation of units (based on BHT's input), complies with the ZBL Section 6B affordability requirements for Subdistrict A.

In Subdistrict B, twenty five percent of the total unit count shall be affordable units in accordance with the Conditions below, Building 100 has 59 total units with twelve affordable units at 80% AMI and three affordable units at 50% AMI. The BHT will review the initial 1 unit assignment was distributed to assure a proper distribution of affordable units the Building.

Building 200 has 53 units with eleven affordable units at 80% AMI and three at 50% AMI. The BHT will review the initial assignment to assure a proper distribution of affordable units in the Building .

The Project meets the ZBL Section 6B affordability requirements within Subdistrict B.

3.5 Consideration of Design Guidelines (ZBL Section 6B.5)

ZBL Section 6B.5 is not intended to be a set of requirements, but rather a set of objectives and design guidelines for consideration when approving a project under ZBL Section 6B. As such, waivers of individual sections are not required. That said, the guidelines were intended to be considered and the Board finds that the Project is in compliance with the guidelines of ZBL Section 6B.5. To the extent there is deviation from any specific individual guideline, the Board has concluded that the result is an overall improved, feasible design in accordance with the purposes and design guidelines provided in ZBL Section 6B.

3.5.1 General Guidelines (ZBL Section 6B.5.1)

Findings for each of the subsections of ZBL Section 6B.5.1 are detailed below.

a. Design and materials

(See Section 3.1.f above.)

b. Impact on traffic and pedestrian flow and safety

The Final Permit Documents include traffic studies that show compliance with the Traffic Mitigation and Monitoring Agreement (“TMMA”) dated November 22, 1999. While questions about the calculations were raised during the DSPR, with input from the Town’s Traffic Peer Review Consultant, the Board sees no specific flaws in any of the presented analysis, and there has been no contrary professional opinion presented to the Board to suggest that there is a flaw in the presented materials and calculations. The Town’s Peer Reviewer concurred. The Board accepts the analysis presented as analytically showing compliance with the traffic provisions of the TMMA. Moreover, under the TMMA, traffic must be monitored and, if traffic volumes are above proscribed levels, the TMMA provides remedies, e.g., the closing of parking spaces, and TMMA compliance is a Condition set out below.

Access to the Zone 3 parcel is by Olmsted drive, an existing private road, which contains a sidewalk along its western edge.

Compliant accessible pedestrian access is provided for within each Subdistrict and the design meets AAB requirements for the Project.

During the public hearing, a question was raised about whether the southern part of the sidewalk along Olmsted drive meets AAB requirements. The Town of Belmont's Zoning Enforcement Officer ("ZEO") determined that this part of the sidewalk both pre-existed and met the AAB requirements. The Board defers to the ZEO's determination. Moreover, this part of the sidewalk is outside Zone 3 altogether and the Project is in compliance within its boundaries. To the extent that compliance outside of Zone 3 needs to be addressed, the Belmont Office of Community Development ("OCD") and the Massachusetts AAB are the proper venues to entertain any further discussion.

During the public hearing, questions were also raised about sight lines for access to/from the Chapel driveway. The Board and the Town's Traffic Peer Review Consultant reviewed materials submitted by the Applicant's traffic and engineering consultants describing the site lines in all directions of the subject area. In response, the speed limit was reduced to 20 mph – the same as for a school zone. To be sure, drivers should exercise care when exiting a driveway both here and elsewhere. The fact that cars may be parked in or near the driveway does not distinguish this driveway from most others in Belmont and, unlike for much of Belmont, a Condition set forth below prohibits parking on Olmsted Drive except in the designated areas. The Board finds that the sight lines are comparable to other areas of Belmont where speed limits are greater and street parking is permitted, and that the Project adequately provides for traffic safety.

The Board finds that the Project adequately provides for traffic and pedestrian flow and safety.

c. Adequacy of utilities, sewage, water, and stormwater drainage

The Board finds that the provision of utilities, sewage, and water drainage is adequate. The Board notes that the infrastructure leading to Zone 3 was built under the assumption that a much larger project would be built (Freedom Commons) and that the infrastructure serving Zone 3 is more than adequate for the Project, whose requirements are materially less than what the infrastructure was designed to support. The Board sought and considered written testimony from the Town's Civil Engineering Peer Review Consultant, who confirmed the adequacy and design compliance of the proposed utility, sewer, water and drainage infrastructure of the Project.

The Town retained the support of Stantec Consulting Services with respect to sewer inflow and infiltration (I/I). Stantec submitted a report dated November 17, 2021, providing an inflow/infiltration removal cost and fee analysis. The report was reviewed by OCD, provided to Applicant and is included in the Final Permit Documents. The Board adopts that analysis, imposes conditions below related thereto, and finds that to be sufficient to support the Project.

Stormwater drainage (and the "Upham Bowl") was an issue of significant discussion during the public hearings. The Upham Bowl is (materially) outside the boundaries and scope of the Project. There nevertheless were issues raised about whether stormwater adequately drains from the Upham Bowl. No documentary evidence of an extant problem was presented to the Board and there were truly significant rain events during the tenure of the DSPR process during which no drainage problems were observed.

To the extent necessary, the Board finds that no stormwater drainage issues have been presented professionally or otherwise to support a finding that the existing stormwater treatment facilities outside Zone 3 are inadequate. This determination is made solely for purposes of this DSPR and is not intended to influence any other deliberation outside of this DSPR over stormwater facilities relating to or involving the Upham Bowl.

More important, however, the Applicant presented analysis, which the Town's Peer-Reviewer confirmed, that the Project will not increase water flow into the Upham Bowl and, if anything, may reduce it. No competent conflicting evidence was presented. As a result, to the extent there is an existing problem, the Board finds that the Project will not make it worse.

The Board declines to require the Applicant to address a problem outside Zone 3 that the Project neither creates nor worsens. The Board finds that the Project provides adequate facilities for stormwater drainage.

d. Adequacy of parking and loading spaces

As noted above, in Subdistrict A, the Project includes 78 interior parking spaces 2 surface spaces assigned to individual units and 12 surface parking spaces for guests for a total of 92 parking spaces. In Subdistrict B, the Project includes 99 garage and 60 surface parking spaces for a total of 159 spaces. These numbers are under the maximum allowable under ZBL Section 6B.3 but are near the limits imposed there. The Board finds that the Project provides for adequate parking both in number and arrangement. The loading spaces are also adequate, as shown in the Final Permit Documents.

e. Garbage disposal

In Subdistrict A each dwelling unit will have individual container service for trash removal and recycling provided by an independent contractor funded through the condominium operating budget. In Subdistrict B, a trash and recycling room has been designed as part of the parking garage beneath Building 200. Trash and recycling management will be provided by an independent contractor funded by the Subdistrict B building owner. The Town shall not be responsible at any time in the future for trash and/or recycling in either Subdistrict. The Board finds that the Project adequately provides for garbage disposal, consistent with Town requirements.

f. Adequacy of landscaping and site improvements.

Based on the Board's review and the input of the LMC, the Board finds that the proposed landscaping and site improvements within Zone 3 are adequate. Landscaping and site improvements for the purpose of buffering is addressed in the following section.

g. Impact on abutters

Construction period, impact and mitigation are addressed in a Construction Management Plan in the Final Permit Documents that meets or is more restrictive than what the ZBL calls for. The plan has been amended after significant input received from the Board and from direct and indirect abutters in Zone 2. The Board finds that compliance with that plan meets the objective of reasonably minimizing impact on abutters during construction (buffering for Zone 2 is discussed below).

For Zone 4, no one (e.g., member of the public, Belmont committee member, or representative of McLean Hospital) raised any objection with respect to buffering for, or impact on, Zone 4 and the Institutional and Open Space Subdistricts. After review of the Final Permit Documents, the Board finds that the Project meets the objective of reasonably minimizing impact on those areas.

This leaves consideration of buffering between Zone 2 and Zone 3. ZBL Section 6B5.5 i) provides:

Landscape buffer should be provided between Olmsted Drive as it passes through Zone 3 and the townhouses located in Zone 2 of the McLean District. Buffering should also be provided prior to construction

The ZBL thus provides for landscape buffering as a desirable feature (“should”). At the time of drafting and adoption, the ZBL contemplated buffering would be implemented within Zone 3 to an extent that would be reasonable and helpful, even though there is relatively little space for buffering landscaping at that location. Buffering in Zone 2 is not something that the ZBL could require, because the Applicant will not own or control that space.

The ZBL also contemplates that some buffering “should” be done before construction begins, also within Zone 3. That pre-construction buffering may be permanent landscape buffering or it may be some form of temporary buffering.

During the Public Hearing, Zone 2 abutters requested landscape buffering along the Zone 2 – 3 boundary and/or within Zone 2. Dialog between the Applicant, the immediately abutting Zone 2 residents and the Zone 2 condominium Trust (without the Board’s involvement), yielded a proposed buffer which includes construction of a masonry wall and a financial contribution by the Applicant to the Zone 2 Condominium Trust for the installation of additional vegetative buffer planting by the Trust (or designated residents) within Zone 2.

The result is an overall plan that exceeds the buffering that the Board may have otherwise required. That plan (laid out in the Final Permit Documents) includes an agreement among the Applicant, the Zone 2 condominium Trust and the direct abutters that is also included in the Final Permit Documents (the “Zone 2-3 Agreement”). Under that agreement, some work is performed by the Applicant in Zone 2 and some money is provided to the Zone 2 Trust for additional work to be performed.

The Board finds that the buffering plan and associated timing specified in the Project are sufficient to reasonably minimize impact on the Zone 2 abutters during and after construction and that the proposed plan in the Final Permit Documents better meets the objectives and guidelines of ZBL Section 6B.

The Board in general, and here, prefers arrangements such as here where the parties most directly affected reach an agreement which is then subject to Board review. The Board also recognizes, however, that, even under a Zone 2-3 Agreement in the form included in the Final Permit Documents, there is a chance (for example) that funds are not provided to the Zone 2 condominium Trust or that the funds are provided but the work is not performed by the Trust for whatever reason. The Town is not a party to that agreement and has no enforcement obligations under it or the ZBL. Consequently, in the event that the buffering specified in the Project appears unlikely to occur, would result in delay in issuance of a building permit or Certificate of Occupancy (“CO”), or otherwise becomes undesirable, the Applicant may seek to amend the Project by removing some or all buffering elements in Zone 2 or at the Zone 2 border and either seek approval by the Board of that amended plan, an amended plan that also provides additional buffering components located along Olmsted drive and within Zone 3, or some other amended plan. Of course, the Board’s preference is that amendment does not become necessary.

3.5.2 Building Design (ZBL Section 6B5.2)

The Project meets the guidelines with respect to mass and scaling, architectural detailing, features materials and appearance and the HDC has approved the proposed renovation design and details of the Chapel Building, all as found above. The Project meets the design guidelines of ZBL Section 6B5.2.

3.5.3 Pedestrian, Bicycle and Vehicle Features (ZBL Section 6B5.3)

The Board and the Town's Traffic Peer Review Consultant reviewed materials concerning emergency access, vehicle turning radius and accessibility requirements. The site is interconnected with sidewalks and the design of the Building 100-A/B passageway connecting Subdistrict B to Subdistrict A further promotes walkability. The Project includes the EV features of ZBL Section 6B.5.3 f) 6. After consideration of the record, the comments of the public and input from the Town's Peer Review Consultants, committees and departments, the Board finds that the Project meets the design guidelines of ZBL Section 6B5.3.

3.5.4 Landscaping and Site Improvements (ZBL Section 6B5.4)

The Board received comments concerning buffering between Zones 2 and 3 which are addressed above and from the LMC which are addressed in the Conditions. After consideration of the record, the comments of the public and the Town's Peer Reviewers, committees and departments, the Board finds that the Project meets the design guidelines of ZBL Section 6B5.4.

3.5.5 Lighting (ZBL Section 6B5.6)

The Final Permit Documents include lighting plans and Dark Sky compliant. After consideration of the record, the comments of the public and the Town's peer reviewers, committees and departments, the Board finds that the Project meets the design guidelines of ZBL Section 6B5.6.

3.5.6 Environmental Design (ZBL Section 6B5.7)

The BEC provided detailed comments and the Applicant responded as incorporated into the Final Permit Documents. Having reviewed the responses and the Project and imposing conditions related thereto below, the Board finds that the responses are adequate (and reflected in the Conditions below) and that the guidelines of ZBL Section 6B.5.7 are adequately addressed and met.

3.6 DSPR Process

The Board extensively reviewed the application, the record, input from the public including both direct and indirect abutters, the Town's Peer Review Consultants, Town committees and departments. The Board finds that the DSPR met the objectives of ZBL 6B.6.1 and the additional conditions of ZBL Section 6B.6.5. To the extent any procedure or submittal requirement was unmet, or condition not imposed, the Board finds that such was unnecessary and that a waiver results in an overall improved, feasible DSPR in accordance with the purposes and design guidelines provided in ZBL Section 6B.

ZBL Section 6B.6.5 b) provides:

The Planning Board shall require that Belmont residents (as defined in Section 6.10.2 of the ZBL) be given preference in the purchase or rental of dwelling units within the MDZ3OD.

While this initially seems to be a mandatory requirement, ZBL Section 6B.6.5 specifies:

In granting Design and Site Plan Approval under this ZBL Section 6B, the Planning Board may impose such other reasonable conditions or safeguards that it determines to be in compliance with the applicable criteria set forth in ZBL Section 6B.6 including, but not limited to the following conditions:

As such, ZBL Section 6B.6.5 b) is permissive; it is not a requirement of the ZBL, notwithstanding use of the word “shall” in that section.

In addition, the Board finds that the intent of ZBL Section 6B.6.5 b) is to provide a local preference for the affordable units and is not intended to cover the market-rate units. Extending a local preference to market-rate units would be unusual to say the least and the reference in ZBL Section 6B.6.5 to Section 6.10.2 is itself a reference to affordability requirements. ZBL Section 6.10.2 is in Section 6.10 (Inclusionary Housing) and defines Belmont Resident “[s]ince there is a ‘local preference’ for some of the Affordable Housing Units.” The Board is imposing Conditions below related to a local preference for affordable units. The Board finds that this section of the ZBL is adequately addressed in the Project.

To the extent waiver is needed, the Board finds that waiver will result in an overall improved, feasible design in accordance with the purposes and design guidelines provided in ZBL Section 6B. As allowed under 6B.6.5 and to the extent necessary, a waiver to ZBL Section 6B.6.5 b) is granted so that no local preference need be provided for market-rate rental and dwelling units.

4 Conditions (“Conditions”)

4.1 General:

- a. It shall be the Applicant’s responsibility to, and the Applicant shall, comply with the Belmont ZBL (unless specifically waived herein), and all local, state and federal laws, regulations, codes and requirements.
- b. It shall be the Applicant’s responsibility to, and the Applicant shall ensure, that the Project complies with the Belmont ZBL (unless specifically waived herein), and all local, state and federal laws, regulations, codes and requirements.
- c. Approval of this Project is based upon the Final Permit Documents and these Conditions. No modifications may be made, or Condition left unmet, without the written approval of the Board or a written determination by Belmont’s OCD that the change is so minor that approval is not required. This includes any modification made to comply with any local, state, or federal approvals, permits, laws or regulations.
- d. Prior to the first building permit being issued, this Decision shall be recorded at the Middlesex South District Registry of Deeds or the Middlesex Registry District of the Land Court. Proof of recording shall be forwarded to the OCD and the ZEO prior to the application for a building permit.
- e. The Applicant shall maintain a copy of the Final Permit Documents and this Decision at the site during construction.
- f. Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant, its successors and assigns. The term “Applicant” shall be deemed to also include the Applicant’s successors and assigns, including any condominium association should components of the project be converted to a condominium form of ownership. These conditions shall be enforced by the Town’s Building Inspector, and lack of compliance with these conditions by the Applicant or its successors and assigns shall be subject to an enforcement action to the maximum extent authorized by law.
- g. All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full prior to the issuance of the first building permit.

4.2 Buildings:

- a. In Subdistrict A, each unit shall be tested for Radon prior to the issuance of CO; if radon is detected at or above 4.0 pCi/L, or the applicable Federal/State limit, a radon mitigation system shall be installed prior to this issuance of the CO.

- b. In Subdistrict B, each building shall be tested for radon prior to the issuance of any CO for that building; if radon is detected above 4.0 pCi/L, or the applicable Federal/State limit, a radon mitigation system shall be installed prior to the issuance of a CO for that building.
- c. Five percent of the units in Buildings 100 and 200 (6 total), shall comply with Group 2A accessible dwelling unit requirements. The remaining units (106 total) shall comply with Group 1 and Fair Housing Act requirements. Marketing plans shall include language on the ability to make adaptable units fully accessible. The Applicant will provide a mix of affordable accessible units, subject to review and approval of the BHT.
- d. All new buildings in Subdistricts A and B, inclusive of the Chapel Building shall be equipped with a fire sprinkler system. Buildings 100 and 200 shall also be equipped with a Fire Alarm system and a public safety radio system. The proposed public safety radio shall be installed prior to the issuance of the first CO for the respective building.
- e. Prior to the application of a building permit in either Subdistrict, final samples of the materials and mock-ups of the exterior finishes shall be made available for Board review and approval.

4.3 Age restrictions, affordability and governance:

4.3.1 Governance:

- a. Subdistrict A (age-restricted), Subdistrict B Building 100 (not age-restricted), and Subdistrict B Building 200 (age-restricted) will be owned and managed by separate legal entities (indirect common ownership is permitted) and have their own management and compliance documents. For example, there shall be three (3) LIP-LAU Applications, three (3) Affirmative Fair Housing Marketing Plans, three (3) Affordable Housing Lottery Plans, three (3) Affordable Housing Restrictions (Regulatory Agreement), and three (3) separate sets of rules and policies - one for Subdistrict A, one for the Subdistrict B non-age-restricted for-rent housing units in Building 100, and one for the Subdistrict B age-restricted for-rent housing units in Subdistrict B Building 200. Some or all of these entities may share access to and use of certain common amenities.
- b. The Applicant is responsible for compliance with the Fair Housing Act, Housing for Older People (HOPA) Act and Mass General Law 151B and all other relevant federal and state housing law, and shall take such actions as necessary for compliance therewith, including where applicable publishing and adhering to policies and procedures that demonstrate an intent to provide housing for persons 55 years or older, and conducting requisite age verifications, separately for Subdistrict A and Subdistrict B Building 200.
- c. Any Approval Not Required Plans for the subdivision of Zone 3 shall be submitted to OCD for written approval prior to issuance of the 1st building permit.
- d. The Applicant shall submit for approval by the Board or its designee a condominium trust agreement that governs the townhomes in Subdistrict A.
- e. The Applicant shall submit for approval by the Board or its designee a condominium trust agreement for Subdistrict B Building 100.
- f. The Applicant shall submit for approval by the Board or its designee a condominium trust agreement for Subdistrict B Building 200.

4.3.2 Age restrictions:

- a. All dwelling units in Subdistrict A shall be subject to the age-restriction provisions of ZBL Section 6B of the ZBL which restrictions shall be incorporated in a deed/deed rider, restrictive covenant, the deed of the trust, master deed or articles of incorporation, or other document, as defined in ZBL Section 6B, that shall be recorded in the chain of title with the Registry of Deeds or Land Court.
- b. The fifty-nine (59) units in Building 100 will not be age restricted.
- c. The fifty-three (53) units in Building 200 will be age-restricted rental units subject to the age-restrictions provisions of Section 6B of the ZBL which restrictions shall be incorporated in a

deed/deed rider, restrictive covenant, the deed of the trust, master deed or articles of incorporation, or other document, as defined in ZBL Section 6B.

4.3.3 Affordable units and local preference:

- a. Applicant shall ensure that all of Subdistrict A and Subdistrict B meet the requirements for listing in the Town's Subsidized Housing Inventory list through the Local Initiative Program – Local Action Unit (the "LIP-LAU") initiative administered by the Department of Housing and Community Development (the "DHCD"). In the event that DHCD or some other body of competent jurisdiction determines that a change to the Project is needed to qualify, Applicant shall implement such changes in a manner approved by the Board and by DHCD.
- b. Building 100 will have twelve affordable units at 80% Annual Medium Income ("AMI") and three affordable units at 50% AMI. The BHT will approve the initial assignment to assure a proper distribution of affordable units in Building 100.
- c. Building 200 has 53 units with eleven affordable units at 80% AMI and three at 50% AMI. The BHT will approve the initial assignment to assure a proper distribution of affordable units in Building 200.
- d. The provisions of this section are intended to complement and not to override or supersede any rules, regulations, or requirements of DHCD, the Massachusetts Commission Against Discrimination, or any authority with jurisdiction and like purpose, to provide low and/or moderate-income housing.
- e. In the event that any term in this section conflicts with any DHCD requirement, DHCD requirements shall control.
- f. For each of Subdistrict A, Building 100 and Building 200, Applicant will record with the Middlesex County Registry of Deeds or Land Court Registry District of Middlesex County a respective Affordable Housing Restriction (Regulatory Agreement), in a form approved in advance by the Board.
- g. For each of Building 100 and Building 200, the Applicant shall separately provide the qualifications of a monitoring agent for Board review and approval.
 - i. Each Monitoring Service Agreement must be approved by the Board or their designee.
 - ii. Each Monitoring Service Agreement will be entered into between the Applicant, the Town and a private monitoring agency.
 - iii. The monitoring agent(s) shall submit an annual independent compliance audit to the Board for each of Building 100 and Building 200. The audit shall insure compliance with ZBL 6.10.
 - iv. If for any reason a designated monitoring agency shall fail or refuse to administer the affordable units or shall cease to exist, the Applicant shall notify the Board and within 60 days the Board and the Applicant shall agree upon a suitable replacement monitoring agent.
 - v. Applicant shall bear the cost of each monitoring agent.
- h. For each of Subdistrict A, Building 100 and Building 200, a separate respective Affirmative Fair Housing Marketing Plan ("AFHMP") shall be approved by DHCD and the BHT, and by the respective monitoring agent, before the issuance of the 1st CO for each individual building.
- i. Each respective AFHMP shall implement a separate lottery plan (a "Lottery") developed by a lottery consultant, hired by the Applicant. Each lottery plan will be approved by DHCD and BHT prior to the selection of residents. The Applicant shall fund the expenses of each Lottery.
- j. To the maximum extent permitted by law and by DHCD, first preference for the purchase or rent of Affordable Units, in the numbers set forth below for Subdistrict A, Building 100 and Building 200, shall be given to households that meet one or more of the local preference criteria found in DHCD's Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines.
 - i. The Town of Belmont shall have the burden to demonstrate to the DHCD the need for "local preference;" failure to demonstrate such a need in a timely manner shall not preclude, subject to DHCD approval, the selling or renting of any of the units. The Town shall execute respective letters from the Chief Executive Officer which states that the tenant selection and local

preference have been approved by the Town and that the Town will perform certain aspects of the AFHMP.

- ii. Purchasers and renters whose selection is based on any of the local preference criteria shall continually meet at least one of these criteria from the time of selection to the time of closing on the purchase of an affordable unit or commencement of a lease. Such a purchaser's or renter's failure to meet at least one of these criteria during this time period shall be a cause for that purchaser's or renter's disqualification and selection of a new purchaser or renter in accordance with the procedures of the respective lottery.
- k. To the maximum extent permitted by law and by DHCD, preference shall be given to households requiring the total number of bedrooms in the Unit with at least one occupant per bedroom and no more than two occupants per bedroom.

Subdistrict A:

- l. At any time, building permits for market rate dwelling units shall not be issued if the building permits for affordable units does not meet or exceed 15% of the total permits issued in Subdistrict A.
- m. At any time, COs for market rate dwelling units shall not be issued if the COs issued for affordable units does not meet or exceed 15% of the total COs issued in Subdistrict A.
- n. Affordable units shall contain the same basic appliances as the market rate units. Units shall contain complete living facilities including a stove, kitchen cabinets, plumbing fixtures, a refrigerator, a microwave, and laundry hook-ups suitable for standard washers and dryers.
- o. Unit finishes for affordable homes shall be built for durability and lower long-term replacement costs. This includes using solid surface material or quartz rather than laminate for countertops and that all affordable homes have age-friendly elements, such as grab bars, and walk-in tile showers.
- p. The market rate units and the affordable units shall be visually comparable from the exterior in size and appearance; the Board finds that the architectural plans approved hereby meet this Condition.
- q. The affordable units shall have the same access and terms of use to all on-site amenities and services as other units in Subdistrict A.
- r. To the maximum extent permitted by law and by DHCD, a local preference will be provided for the purchase of two (2) of the affordable units in accordance with the provisions of condition 4.5.3 of the decision, for the duration of one year after the issuance of the respective CO.

Subdistrict B Building 100:

- s. Affordable units must contain the same basic appliances as the market rate units. Units shall contain complete living facilities including a stove, kitchen cabinets, plumbing fixtures, a refrigerator, a microwave, and laundry hook-ups suitable for standard washer and dryers.
- t. The affordable housing units shall have the same access and terms of use to all on-site amenities and services as other occupants in the same Subdistrict.
- u. To the maximum extent permitted by law and by DHCD, a local preference will be provided for the leasing of five (5) of the affordable units in accordance with the provisions above of condition 4.5.3 of the decision, for the duration of one year after the issuance of the respective CO.
- v. The Applicant shall obtain written approval of the BHT for the initial distribution of affordable and local preference units before the CO for Building 100.

Subdistrict B Building 200:

- w. Affordable units must contain the same basic appliances as the market rate units. Units shall contain complete living facilities including a stove, kitchen cabinets, plumbing fixtures, a refrigerator, a microwave, and laundry hook-ups suitable for standard washer and dryers.
- x. The affordable housing units shall have the same access and terms of use to all on-site amenities and services as other occupants in Building 200.

- y. To the maximum extent permitted by law and by DHCD, a local preference will be provided for the leasing of five (5) of the affordable units in accordance with the provisions above, for the duration of one year after the issuance of the respective CO.
- z. The Applicant shall obtain written approval of the BHT for the initial distribution of affordable and local preference units before the CO for Building 200.

4.4 Civil & Site:

- a. Per the request of the Fire Department, the Applicant shall widen the existing Emergency Access Easement and traveled way connecting Olmsted Drive in Zone 4 to Main Road in Zone 5 (McLean Institutional Subdistrict) from 11 feet to 18 and grade the driving surface to not exceed the maximum allowable minimum approach angle of 8 degrees from Olmsted Drive to the McLean Institutional Subdistrict. The Applicant shall remove any boulder obstructions and relocate the street lamp along and adjacent to the existing Emergency Access as necessary to provide for unimpeded Fire Department Truck Access. This work shall be completed prior to the issuance of the 1st building permit in either Zone 3 Subdistrict.
or
- b. Per the request of the Fire Department, the Applicant shall work together with the Fire Department and McLean Hospital to develop a plan to provide the space necessary for Fire Department Truck Access to both Zones 3 and 4. The proposed plan shall be provided to the Town and any work required to implement the developed plan shall be completed prior to the issuance of the 1st building permit in either Zone 3 Subdistrict.
- c. Prior to issuance of the last CO, the Applicant shall submit to the Board "As-Built Plan(s)" showing all drainage structures and sewer facilities as they exist on the site, including appropriate grades and elevations. The Applicant shall also submit proof that an As-Built Plan has been prepared for all utilities including water, gas, electric, and cable, acceptable to the utility companies. Each plan sheet shall be signed and show the seal of a Registered Professional Engineer, or Registered Land Surveyor certifying that the project, as built, conforms with the approved plan.
- d. Any permanent Project signs and/or signage shall be reviewed and approved by the Board prior to installation, at a later meeting upon request. All signs shall comply with ZBL Sections 5.2.4(a)(1) and 5.2.4(a)(3) of the By-Law unless a waiver is granted.
- e. Before the issuance of the 1st building permit, the location of discharge point #1700 FES shall be reviewed in the field with the Applicant and the LMC or its designee to determine that the discharge point is located to reasonably minimize impact on downhill vegetation and soils. The final location of discharge point #1700 FES shall be approved by the LMC before issuance of the last CO.
- f. The Applicant shall install boundary markers along the Zone 3 boundaries with public open space, prior to the issuance of the last CO or the removal of site construction and perimeter controls. The LMC will provide or approve the design of the open space boundary markers, their locations and their spacing.

4.5 Stormwater:

- a. Applicant shall comply with the Stormwater Management and Erosion Control By-Law, of the General By-Law, as adopted by the 2013 Annual Town Meeting. Thirty days prior to the commencement of on-site Project activities the Owner, Applicant and the site contractor shall prepare and submit the Project's Stormwater Pollution Prevention Plan (SWPPP) and National Pollutant Discharge Elimination System (NPDES) to the EPA with a copy to the Office of Community Development.
- b. The Applicant shall be responsible for the payment of \$211,848.00 to the Town of Belmont for the Inflow/Infiltration (I/I) Removal Fee. This figure represents a rate of 40 gallons per bedroom at \$4.55/gallon of flow times 4. This payment may be reduced or eliminated through repairs to the

existing McLean physical plant. Half of the mitigation shall be paid prior to the issuance of the 1st building permit of each Subdistrict.

4.6 Construction:

- a. At least seven days prior to the start of construction, the Applicant shall provide written notice to the Zoning Enforcement Officer of the anticipated construction start date.
- b. The Applicant shall comply with the Construction Management Plan submitted in the Final Permit Documents.
- c. All proposed construction signage shall describe the limit of work boundaries, parking and staging area designations, traffic routing and safety precautions. It shall be prominently posted prior to the commencement of work and maintained in English, Spanish and Portuguese. Any construction signage shall be approved by OCD.
- d. All utilities, including but not necessarily limited to electric, cable and telephone shall be located underground.
- e. The Applicant shall ensure safe and convenient vehicular access into and around the Site during the entire duration of the project construction. Any traffic problems that occur as a result of construction shall be mitigated as soon as reasonably practical, at the expense of the Applicant. Additional traffic enforcement or management measures may be required as reasonably necessary, or as reasonably directed by the Zoning Enforcement Officer or Building Commissioner upon consultation with the Applicant. The Board's representatives shall be permitted access to the Site, subject to conformance with applicable safety standards with reasonable notice, to observe and inspect the Site and construction progress until such time as the Project has been completed.
- f. Parking at the Project for construction vehicles and workers shall at all times be on within the site or with the designated area of Zone 4. No construction parking is permitted in or along Olmsted Drive.
- g. In the event that blasting should be required for the project, the Applicant shall develop, agree upon and execute a mutually satisfactory safety and public notice protocol with the Building Commissioner and Fire Department prior to the commencement of any blasting work.
- h. The Applicant shall comply with ZBL Section 5.4.2 (Noise).

4.7 Environmental Conditions:

- a. The Applicant shall install electric heat pump HVAC systems prior to the CO for the respective units in Subdistrict A and B.
- b. Each Subdistrict A unit will be equipped with air-source heat pump hot water heaters and induction cooking equipment prior to the CO for such unit.
- c. Each Subdistrict B unit will be equipped with induction or electric resistance cooking equipment prior to the CO for such unit.
- d. All buildings will be designed to be PV-ready per EPA Renewable Energy Ready Homes (RERH) guidelines. This Condition adopts the definition of PV-Ready provided in Applicant's response (dated November 1, 2021) to the BEC that is included in the Final Permit Documents.
- e. Prior to the installation of photovoltaic panels, the Applicant or future condominium owners shall consult with the Fire Department on any necessary shutoff devices.
- f. Prior to the first CO in Subdistrict A, the adoption of a condo association bylaw affirmatively permitting solar on all Townhouses units shall be established.
- g. Buildings within Zone 3 shall be LEED v4 (or later) Homes Silver certifiable. Applicant shall submit a LEED Checklist prior to the final CO and a self-certification of compliance and Applicant will provide all other documentation required to establish compliance with LEED v4 Homes silver level of certification (but not including certification fees).
- h. Appliances and lighting installations in all of the Subdistrict shall be at a minimum Energy Star rated.
- i. Electric vehicle ("EV") charging connectivity and stations shall be provided in the garages of each Subdistrict.

- i. In Subdistrict A – One EV charging station shall be installed in each unit.
- ii. In Subdistrict B – EV charging stations shall be provided for at least 20% of all common parking spaces. The Applicant shall consult with the Fire Department on location before they are installed.
- j. The Applicant will pursue 1.5 out of a possible 4 points within the optional Environmentally Preferable Products LEEDS credit, will assess product and material selection as the Project progresses, and will seek OCD approval if any failure to achieve 1.5 points is immaterial and Board approval if material.
- k. Exterior lighting shall be Dark Sky compliant.
- l. Applicant may consider such other steps as indicated in Applicant's response (dated November 1, 2021) to the BEC that is included in the Final Permit Documents, but no conditions related to any of those are imposed unless and to the extent recited above.

4.8 Historic Preservation:

- a. The Applicant shall comply with the HDC's Design Review Agreement regarding the Eliot Chapel, dated November 30, 2021.

4.9 Maintenance & Landscaping:

- a. The Applicant shall provide for the private maintenance and management of the Project, including roadway maintenance and repair, maintenance of landscape elements and natural open space, maintenance and repair of stormwater management facilities and common utilities, snow storage and removal, trash removal and recycling, and non-toxic pest control measures.
- b. No dumpsters will be located in Subdistrict A, trash and recycling will be removed by an independent contractor funded through a condominium operating budget.
- c. In Subdistrict B, trash and recycling management shall be contained in the trash room located in the parking garage beneath Building 200 as detailed in the Final Permit Documents. Trash and recycling management will be provided by an independent contractor funded by the Subdistrict B building owner.
- d. The Town will have no responsibility for trash or snow removal in Zone 3.
- e. Prior to issuance of the last CO, the Applicant shall have fully completed the infrastructure improvements and plantings shown on the approved landscaping plan. The Applicant is responsible for the survival of all new landscaping planted in connection with the project for two years from the date of the issuance of the CO for the last dwelling (unit/building) within either Subdistrict. The Building Commissioner or his designee shall inspect all landscaping two (2) years after planting. All dead, damaged or diseased trees planted in connection with the project shall be replaced on "one to one basis of equal size and quality". Only after inspection and replacement (if necessary) shall the performance guarantee securing satisfactory completion of the landscaping be released". The performance guarantee that the Applicant shall provide for the construction and completion specified elements of the project shall be \$50,000 for each Subdistrict to insure the survival of planting stock within each Subdistrict. The performance guarantee shall be submitted prior to the issuance of the 1st building permit in each respected subdistrict.
- f. Applicant will provide for snow removal as specified in snow removal plan of the Final Permit Documents.
- g. Native small tree and shrub species will be used exclusively. The straight species are preferred; however, cultivars may be used in cases where the straight species is not available or size- appropriate for the planned location(s).
- h. Invasive species on the Massachusetts Prohibited Plant List and on the Massachusetts Invasive Plants Advisory Group's lists of "Invasive", "Likely Invasive" and "Potentially Invasive" plants, shall be not used on the Project and all such plants, if encountered during construction and the plant guarantee period, will be removed.

- i. The canopy trees located at the Chapel shall be 4.5 inch caliper or greater.
- j. Applicant shall, as part of its building permit application, submit for review and approval by the LMC, planting plans, specifications and material lists for the area south of Subdistrict A, Building 10-14 and east of Subdistrict B, Building 200, (the “Open Space Boundary Zone(s)”.
- k. Landscape maintenance requirements to control invasive species in Zone 3 shall be required components of the governing documents of the Project. Applicant will provide the maintenance requirements for LMC and Planning Board review and approval.

4.10 Lone Tree Conservation Land:

- a. Prior to the last CO Applicant shall provide for the installation of Open Space trailhead access points and wayfinding signage and/or kiosk(s) at one or two locations determined and approved by the LMC. Said location(s) will be compatible with this approval and the other terms of the Mclean District Bylaw and related agreements. No kiosks or trailheads shall be installed or marked until the trails are opened to the public. If this has not occurred at the time the last CO is otherwise ready to issue, the CO may issue when Applicant enters an agreement with the Town to complete the tasks in this paragraph after the trails have been opened.

4.11 Traffic:

- a. Applicant shall comply with the TMMA.
- b. Within 30 days of 90% occupancy, weekly monitoring will be required for 52 weeks, with results submitted to the OCD on a schedule to be specified by OCD.

4.12 Parking:

- a. Parking is prohibited along Olmsted Drive, except in designated parking spaces as indicated in the Final Permit Documents.

Town of Belmont, Planning Board

Stephen Pinkerton, Chair

Matthew B. Lowrie, Vice-Chair

Edmund Starzec

Thayer Donham

Karl Haglund

Renee Guo

Anyone aggrieved by the issuance of this DSPR Approval has the right to appeal pursuant to M.G.L. Ch. 40A, § 17 and shall file such appeal within 20 days after the date of filing this decision with the Town Clerk.

APPENDIX A: FINAL PERMIT DOCUMENTS
March 21, 2022

1. Application for Design and Site Plan Approval
 - a. Application for Design and Site Plan Review
 - b. D&SP Review Filing Fee
 - c. Project Team and Contact Information, dated 4.16.21, revised 3.1.22
2. Governing Documents
 - a. McLean District Zone 3 Overlay Bylaw
 - b. Memorandum of Agreement
3. Civil Engineering Plan Set & Related Materials
 - a. Civil Engineering Plan Set, prepared by VHB, dated 4.16.21, revised 3.1.22
 - b. Storm Water Management Report, prepared by VHB, dated 4.16.21, revised 9.23.21
 - c. BSC Peer Review Comments, Re: Stormwater Design, dated 10.4.21
 - d. BSC Peer Review Comments, Re: Upham Bowl, dated 12.20.21
4. Sewer Infiltration & Inflow
 - a. Waste Water Generation Memo, prepared by Stantec, dated 11.17.21
 - b. VHB Memo, dated 12.6.21
5. Landscape Architectural Plan Sets & Related Materials
 - a. Typical Unit, Building & Site Landscape Planting Plan(s) prepared by Ryan Associates, dated 4.16.21, revised 3.1.22
 - b. Site Lighting Plan(s) – see sheets L3.01-L3.04 in the above cited plan set, dated 4.16.21, revised 3.1.22
 - c. Olmsted Drive Landscape Buffer Plans - see Sheets L1.3 & L1.4 in the above cited plan set, dated 4.16.22, revised 3.1.22
 - d. Woodlands II Landscape Buffer Proposal/(Agreement), prepared by Northland Residential, dated 1.10.22, revised 3.1.22
6. Project Architecture
 - a. Sub-District A – Townhouse Unit Architecture Plan Set, prepared by TAT, dated 4.16.21, revised 3.1.22
 - b. Sub-District B – Multi-Family Building Architecture Plan Set, prepared by TAT, dated 4.16.21, revised 3.1.22
 - c. Davis Square Peer Review Memos dated 8.3.21 & 10.11.21 and TAT response dated 11.13.21
7. Visual Impact Analysis
 - a. Sheets A4.11, A4.12 & A5.01 of Subdistrict B Architectural Plan Set, dated 4.16.21, revised 3.1.22
8. Traffic Impact Assessment
 - a. Traffic Impact Analysis, prepared by Vanasse & Associates, dated 4.16.21
 - b. Signal Warrant Analysis, prepared by Vanasse & Associates, dated 4.16.21
 - c. BSC Peer Review Comments, dated 9.21.20
 - d. Chapel Site Line Assessment, prepared by VHB, dated 12.7.21
 - e. BSC Peer Review Comments, dated 12.21.21

- f. Olmsted Drive Traffic Signage and Pavement Marking Plan, prepared by Vanasse & Associates, dated 12.15.21
 - g. Vehicle Movement Assessment(s) – Bus, Fire Truck and 40’ Box Truck
- 9. Environmental Design & Sustainability
 - a. Applicant Response to EC Recommendations, dated 11.1.22
- 10. Construction Management & Phasing Plan
 - a. CMP dated 1.14.22, revised 2.28.22 (clean and redline)
- 11. Historic Preservation and Re-Use – Chapel Building
 - a. HDC Design Review Agreement Date 11.30.21
- 12. Long Term Site Management & Governance
 - a. Declaration of Reciprocal Easements and Agreements, dated 1.24.05
 - b. Declaration of Easements and Covenants – (draft form) dated 11.19.21
 - c. Land Management Committee letter dated 1.25.22
 - d. Snow Management Plan prepared by Northland Residential, dated 1.12.22, revised 2.8.22
 - i. BSC Peer Review Comments, dated 1.18.22
 - e. Condominium Master Deed – (draft form) dated 11.19.21, revised 12.3.21
 - f. Condominium Declaration of Trust – (draft form) dated 11.19.21
- 13. Site Accessibility
 - a. Site Accessibility Report, prepared by Deborah A. Ryan & Associates, dated 6.16.21
 - b. ZEO Letter Dated 2.11.22
- 14. Affordable Housing
 - a. Housing Trust Letter dated 11.9.21

APPENDIX B: WRITTEN MATERIALS RECEIVED AND REVIEWED

1. April 16, 2021 Application Submissions:

- a. Application for Design and Site Plan Review, dated April 16, 2021;
- b. Existing Conditions (1 Page), dated May 27, 2016;
 - i. Sv-1 – Existing Conditions;
- c. Site Plans (22 Pages), prepared by VHB (“VHB”) and dated April 16, 2021;
 - i. C1.00 – Legend and General Notes;
 - ii. C2.00 – Index Plan;
 - iii. C3.00 – Layout and Materials Plan;
 - iv. C3.01 – Layout and Materials Plan;
 - v. C3.02 – Layout and Materials Plan;
 - vi. C3.03 – Layout and Materials Plan;
 - vii. C3.04 – Layout and Materials Plan;
 - viii. C4.01 – Grading and Drainage Plan;
 - ix. C4.02 – Grading and Drainage Plan;
 - x. C4.03 – Grading and Drainage Plan;
 - xi. C4.04 – Grading and Drainage Plan;
 - xii. C5.01 – Utility Plan;
 - xiii. C5.02 – Utility Plan;
 - xiv. C5.03 – Utility Plan;
 - xv. C5.04 – Utility Plan;
 - xvi. C6.01 – Sewer and Drainage Profiles;
 - xvii. C7.01 – Erosion and Sediment Control Plan;
 - xviii. C8.00 – Fire Truck and Traffic Circulation Plan;
 - xix. C9.01 – Site Details;
 - xx. C9.02 – Site Details;
 - xxi. C9.03 – Site Details;
 - xxii. Sv-1 – Existing Conditions Plan of Land;
- d. Architectural Drawings & Elevations (46 Pages), prepared by The Architectural Team, Inc. (“TAT”) and dated April 16, 2021;

Subdistrict A

- i. T0.01 – Project Cover;
- ii. T0.02 – Drawing Index, Project Information & Key Plan;
- iii. A1.01 – Building 1, 2, 3, 4, 5 Floor Plans;
- iv. A1.02 – Building 6 Floor Plans;
- v. A1.03 – Building 7 Floor Plans;
- vi. A1.04 – Building 8, 9, 13 Floor Plans;
- vii. A1.05 – Building 10 Floor Plans;
- viii. A1.06 – Building 11, 12 Floor Plans;
- ix. A1.07 – Building 14 Floor Plans;
- x. A1.08 – Chapel Floor Plans;
- xi. A2.01 – 2 BR Affordable Inline Unit Plans;
- xii. A2.02 – 2 BR Inline Unit Plans;
- xiii. A2.03 – 2 BR End Front Entry Garage Unit Plans;
- xiv. A2.04 – 2 BR End Side Entry Garage Unit Plans;
- xv. A2.05 – 3 BR End – A Front Entry Garage Unit Plans;

- xvi. A2.06 – 3 BR End – A Side Entry Garage Unit Plans;
- xvii. A2.07 – 3 BR End – B Front Entry Garage Unit Plans;
- xviii. A2.08 – 3 BR End – B Side Entry Garage Unit Plans;
- xix. A2.09 – 3 BR End – C Garage Under Unit Plans;
- xx. A2.10 – 3 BR Single Unit Plans;
- xxi. A4.01 – Building 1 Exterior Elevations;
- xxii. A4.02 – Building 5 Exterior Elevations;
- xxiii. A4.03 – Building 12 Exterior Elevations;
- xxiv. A4.04 – Building 13 Exterior Elevations;
- xxv. A4.05 – Building 13 Exterior Elevations;
- xxvi. A4.06 – Chapel Exterior Elevations;
- xxvii. A4.07 – Chapel Exterior Elevations;
- xxviii. A4.08 – Enlarged Building Exterior Elevations;
- xxix. A5.01 – Building 5 & 13 Sections;

Subdistrict B

- xxx. T0.01 – Project Cover;
- xxxi. T0.02 – Drawing Index, Project Information & Key Plan;
- xxxii. A1.00 – Buildings 100 & 200 Floor Plans – Garage Plan;
- xxxiii. A1.01 – Buildings 100 & 200 – First Floor Plans;
- xxxiv. A1.02 – Buildings 100 & 200 – Second Floor Plans;
- xxxv. A1.03 – Buildings 100 & 200 – Third Floor Plans;
- xxxvi. A1.04 – Buildings 100 & 200 – Fourth Floor & Roof Plans;
- xxxvii. A1.05 – Buildings 100 & 200 Roof Plans;
- xxxviii. A2.01 – Buildings 100 & 200 Typical Enlarged Unit Plans;
- xxxix. A4.01 – Buildings 100 & 200 Exterior Elevations;
- xl. A4.02 – Buildings 100 Exterior Elevations;
- xli. A4.03 – Buildings 200 Exterior Elevations;
- xl. A4.04 – Buildings 200 Exterior Elevations;
- xlii. A4.05 – Enlarged Building Exterior Elevations;
- xliv. A4.11 – Winter & Summer Views from Waverly Square;
- xl. A4.12 – Winter & Summer Views from Waverly Square;
- xlvi. A5.01 – Buildings 100 & 200 Building Sections;

e. Lighting & Landscaping Plans (18 Pages) prepared by Ryan Associates, (“RA”) and dated April 16, 2021;

- i. L-1.0 – Index Plan Landscape;
- ii. L-1.1 – Street Tree, Buffer Planting & Tree Preservation Plan;
- iii. L-1.2 – Street Tree, Buffer Planting & Tree Preservation Plan;
- iv. L-1.3 – Street Tree, Buffer Planting & Tree Preservation Plan;
- v. L-1.4 – Street Tree, Buffer Planting & Tree Preservation Plan;
- vi. L-1.5 – Street Tree, Buffer Planting & Tree Preservation Plan;
- vii. L-2.1 – Landscape Plan – Typical Bldgs 100 & 200;
- viii. L-2.2 – Landscape Plan – Typical Twhs Bldgs #6-14;
- ix. L-2.3 – Landscape Plan – Typical Twhs Bldgs #3-6;
- x. L-2.4 – Landscape Plan – Typical Twhs Bldgs #1-2;
- xi. L-2.5 – Landscape Plan – Typical – The Eliot Chapel;
- xii. L-2.6 – Site Lighting Plan;
- xiii. L-3.1 – Site Lighting Plan;
- xiv. L-3.2 – Site Lighting Plan;

- xv. L-3.3 – Site Lighting Plan;
- xvi. L-3.4 – Site Lighting Plan;
- xvii. L-4.1 – Site Details;
- xviii. L-4.2 – Site Details;
- xix. L-4.3 – Site Derails Lighting;
- f. Stormwater Report, prepared by VHB, dated April 16, 2021;
- g. Governance Documents:
 - i. Zone 3 Master Plan, prepared by TAT, dated April 16, 2021;
 - ii. Belmont and McLean Overlay District Maps;
 - iii. Approved Zoning Bylaw Section 6B Language;
 - iv. 1999 Memorandum of Understanding;
 - v. Conservation Restrictions B-1 & B-2;
 - vi. Historical Preservation Agreement;
 - vii. Traffic Monitoring and Mitigation Agreement;
 - viii. Declaration or Reciprocal Easements and Agreement, dated January 24, 2005;
 - ix. Construction Management Plan, dated April 16, 2021;
- h. Sustainability Narrative, prepared by New Ecology, dated April 13, 2021;
- i. Views from Trapelo Road and Waverly Square, prepared by TAT, Sheets A4.11, A4.11 and A5.01, dated April 16, 2021.
- j. Transportation Impact Assessment, dated April 2021;
- k. Traffic Monitoring and Mitigation Agreement;
- l. Transportation Traffic Assessment and Signal Warrant Analysis, dated April 16, 2021.

2. Revised Documentation:

- a. Revised Stormwater Management Report, prepared by VHB, dated September 23, 2021;
- b. Revised Site Plans, plan set prepared by VHB, dated March 1, 2022;
- c. Revised Architectural Plan, plan sets, prepared by TAT, dated March 1, 2022
- d. Revised Landscape Planting Plan, plan sets, prepared by Ryan Associates, dated March 1, 2022
- e. Revised Construction Management Plan, prepared by Northland Residential, dated April 16, 2016, updated January 14, 2022, January 24, 2022 and February 28, 2022.

3. Presentations to Public Boards:

- a. May 18, 2021 Planning Board Presentation;
- b. May 27, 2021 Housing Trust Presentation;
- c. June 22, 2021 Planning Board Presentation;
- d. July 6, 2021 Planning Board Presentation;
- e. Revised July 6, 2021 Planning Board Presentation;
- f. July 20, 2021 Planning Board Presentation;
- g. August 3, 2021 Planning Board Presentation;
- h. September 9, 2021 Planning Board Presentation;
- i. September 21, 2021 Landscaping Presentation;
- j. September 21, 2021 Traffic Presentation;
- k. October 12, 2021 Historic District Committee Presentation;
- l. October 21, 2021 Historic District Committee Presentation;
- m. November 9, 2021 Historic District Committee Presentation;
- n. November 16, 2021 Planning Board Presentation;
- o. December 7, 2021 Planning Board Presentation;

4. Additional Information:

- a. May 25, 2021 Site Tour, Site Plan;

- b. Waiver Requests, dated May 28, 2021;
- c. McLean Zone 3 Site Accessibility letter, prepared by Deborah A. Ryan & Associates, dated 6.16.21;
- d. Accessibility Requirements for the Subdistrict A Townhomes;
- e. July 20, 2021 Subdistrict A Building Sections;
- f. July 20, 2021 Subdistrict A Floor Area Unit Mix Summary Chart;
- g. July 20, 2021 Subdistrict A Enlarged Unit Floor Plans with Living Area GS;
- h. August 4, 2021 Subdistrict A Enlarged Unit Floor Plans with Living Area GS;
- i. SU-40 Truck and School Bus Turns, prepared by VHB, dated September 23, 2021;
- j. The Residences at Bel Mont - Flyover Animation, prepared by TAT, submitted October 18, 2021;
- k. Proposed Exterior Bike Racks and Location, prepared by RA, submitted December 7, 2021;
- l. Buffering Planting Plan, submitted December 7, 2021;
- m. Town's Response to Applicant's submittal re. AAB Requirements, dated December 8, 2021;
- n. Applicant's Future Scheduling Proposal, dated December 9, 2021;
- o. Applicant's Follow up on Accessibility, dated December 10, 2021;
- p. Applicant's Follow up on the Chapel Driveway Sight Lines, dated December 16, 2021;
- q. Applicant's Response to Snow Management, dated December 29, 2021;
- r. Applicant's Proposed Process with DHCD, dated January 3, 2022;
- s. DHCD Response to Applicant's Proposed Process, dated January 5, 2022;
- t. McLean Zone 3 Snow Management Plan, submitted January 12, 2022, updated January 24, 2022, and February 8, 2022;
- u. Olmsted Drive Zone 3 Buffer @ Building #7, submitted January 26, 2022;
- v. Buffering Planting Plan, submitted January 28, 2022, updated January 28 and March 1, 2022;
- w. Construction Management Plan November 17, 2021;
 - i. Revised January 14, 2022 & January 24, 2022;
- x. Legal Documents;
 - i. Declaration of Reciprocal Easements and Agreements, January 24, 2005;
 - ii. Draft Declaration of Trust, November 19, 2021;
 - iii. Draft Zone-3 Declaration of Easements and Covenants, November 19, 2021;
 - iv. Draft Master Deed, November 19, 2021;
 - i. Revised December 3, 2021;
- y. Infiltration and Inflow Analysis, dated November 23, 2021 & December 6, 2021.

5. Staff/Committee Comments Received:

- a. Town of Belmont Energy Committee, dated June 27, 2021 & November 23, 2021;
- b. Town of Belmont Fire Department, dated July 21, 2021 & September 14, 2021;
- c. The Land Management Committee for Lone Tree Hill, dated August 23, 2021, January 18, 2022, and January 25, 2022;
- d. Historic District Commission Comments, dated September 10, 2021;
- e. Belmont Housing Trust, dated September 15, 2021 & November 9, 2021;
- f. Historic District Commission Design Review Agreement, dated November 30, 2021;
- g. Belmont Public School Comments, dated December 10, 2021;

6. Written Peer Review Comments Received:

- a. Davis Square Architect Peer Review Letter, dated August 3, 2021 & October 11, 2021;
 - i. Architectural Peer Review Response, dated October 14, 2021
- b. BSC Group Traffic Peer Review Letter, dated August 6, 2021;
- c. BSC Group Stormwater Peer Review Letters, dated August 6, 2021 & October 4, 2021;
 - i. BSC Group Stormwater Peer Review Response, dated October 25, 2021;
 - ii. BSC Group Stormwater Peer Review Response, dated December 20, 2021;
 - iii. BSC Group Sight Line Review Response, dated December 21, 2021;

- iv. BSC Group Snow Management Review Response, dated January 18, 2022;
- d. Sewer Flow and I-I calculation, dated November 17, 2021;

7. Written Public Comments Received:

- a. Robert Eckert, dated May 18, 2021, June 7, 2021, June 14, 2021, June 22, 2021, June 23, 2021, July 13, 2021, July 19, 2021, July 28, 2021, July 29, 2021, August 3, 2021 August 6, 2021, August 10, 2021, August 17, 2021, August 26, 2021, September 8, 2021, September 22, 2021, October 5, 2021, October 14, 2021, October 15, 2021, October 29, 2021, November 1, 2021, November 15, 2021, November 16, 2021, December 7, 2021, December 21, 2021, January 17, 2022, January 18, 2022, January 24, 2022, February 1, 2022, February 7, 2022, and February 8, 2022;
- b. Stan Rome, dated July 3, 2021;
- c. Rodolfo Neirotti, dated July 5, 2021 and September 26, 2021;
- d. William Chen, dated July 6, 2021;
- e. Joseph Newberg, dated July 20, 2021, January 15, 2022, January 17, 2022, January 29, 2022, and January 31, 2022;
- f. Joe Hibbard, dated September 15, 2021;
- g. South Cottage Road Abutter Comments, dated September 23, 2021 and January 16, 2022;
- h. Victoria Bond, dated October 6, 2021;
- i. Sandra and Bill Chen, dated December 14, 2021 and January 14, 2022;
- j. Mark Gouker, dated December 14, 2021 and January 15, 2022;
- k. Jolanta and Robert Eckert, dated January 13, 2022;
- l. Jolanta Eckert, dated February 7, 2022;

8. Applicant's Written Responses to Comments:

- a. Applicant's Public Meeting Continuation Request, dated August 12, 2021;
- b. Applicant's Response to the Fire Comments, dated August 31, 2021;
- c. Applicant's Response to the Historic District Commission Comments, dated September 20, 2021;
- d. Response to Traffic Peer Review, dated September 21, 2021;
- e. REA Document - Applicant Response, dated September 22, 2021;
- f. Stormwater Response Comments Letter, dated September 23, 2021;
- g. Applicant's Response to Fire Comments, dated October 6, 2021;
- h. Applicant's Response to the Landscape Questions, dated October 19, 2021;
- i. Applicant's Response to the Cellars Questions, dated October 31, 2021;
- j. Applicant's Response to the Energy/Sustainability Comments, dated November 1, 2021;
- k. Applicant's Response to the Belmont Housing Trust Comments, dated November 2, 2021;
- l. Applicant's Response to the Land Management Committee Comments, dated November 11, 2021;
- m. Applicant's Response to the Architectural Peer Review Comments, dated November 13, 2021;
- n. Applicant's Response to the Sewer Flow and I-I calculation, dated November 23, 2021, updated November 30, 2021 & December 6, 2021;
- o. Applicant's Response to the HDC Design Review Agreement Comments, dated December 1, 2021;
- p. Applicant's Response to Buffering Planting Plan, submitted January 14, 2022;
- q. Applicant's Response (2) to Buffering Planting Plan, submitted January 18, 2022;
- r. Applicant Response to School Bus Comments, submitted January 19, 2022;
- s. Applicant's Response to School Bus Comments, submitted January 24, 2022;

9. Continuation

- a. Applicant's Continuation Request for the Decision Deadline, dated February 15, 2022;

10. Other Town Documents:

- a. Renee Guo Mullin Rule Certification, received July 19, 2021;
- b. Karl Haglund Mullin Rule Certification, received August 16, 2021;
- c. Matt Lowrie Mullin Rule Certification, received October 4, 2021;
- d. Stephen Pinkerton Mullin Rule Certification, received November 19, 2021;
- e. Edmund Starzec Mullin Rule Certification, received February 23, 2022;
- f. Zoning Enforcement Letter, dated February 11, 2022.