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TOWN OF BELMONT
BOARD OF APPEALS
Decision No. 21-01 – Comprehensive Permit
91 Beatrice Circle, Belmont, MA

Applicant: 91 Beatrice Circle, LLC (hereinafter referred to as the “Applicant”)

Application For: Comprehensive permit under G.L. Chapter 40B, Sections 20-23 for the construction of 12 rental apartments in 2 townhouse buildings at 91 Beatrice Circle, Belmont (hereinafter referred to as the “Site”).

Dates of Hearing: January 11, January 21, January 25, February 8, March 8, April 5, May 6, June 10, July 12, July 26, and August 2, 2021. The Board deliberated on August 18, August 23, September 2, and October 7, 2021.

Applicant Team: **Developer:** 91 Beatrice Circle, LLC by Comprehensive Land Holdings, LLC and Stephen A. Tamposi, Joseph A. Tamposi, and Jacob B. Tamposi, Managers
Legal: Regnante Sterio LLP by Jesse D. Schomer, Esq. and Theodore C. Regnante, Esq.
Architecture: Embarc, Inc. by Dartagnan Brown, AIA, Daniel Riggs, AIA, and Tim Loranger, AIA.
Civil Engineering: DeCelle-Burke-Sala & Associates, Inc. by Jim DeCelle, P.E., James W. Burke, P.E., and Claudio Sala, P.L.S.
Landscape Design: Verdant Landscape Architecture by Blair Hines, PLA and Katya Podsiadlo, PLA
Traffic/Safety: MDM Transportation Consultants, Inc. by Robert J. Michaud, P.E., and Daniel J. Mills, P.E., PTOE

Board of Appeals: Chair Nicholas A. Iannuzzi, Jr.
Members James Zarkadas (Vice-Chair), Casey Williams, Andrew Kelley, and Teresa MacNutt
Associate members Elliot Daniels, Jeffrey Birenbaum, David Stiff
Voting: Nicholas A. Iannuzzi, Jr. James Zarkadas, Casey Williams, Andrew Kelley, and Teresa MacNutt¹

Decision: To unanimously **GRANT** the comprehensive permit based on the findings and waivers and subject to the conditions stated below.

¹ Mr. Zarkadas missed one session of the public hearing and has submitted a certification required for participation and voting under G.L. c. 39, § 23D. Former associate member William Fick moved from Belmont during the pendency of the hearing.

FINDINGS AND DECISION

1. On May 12, 2020, the Applicant submitted a Project Eligibility Application to MassHousing (the “Subsidizing Agency”) in order to develop 16 rental units at the Site, including a mix of three- and four-bedroom units (the “Project”). The May 12 application called for 4 of the 16 rental units to be affordable to households earning 80% of the Area Median Income (“AMI”), adjusted for household size, as determined by the Subsidizing Agency.

2. The Site, which contains 23,496 square feet (approximately 0.54 acres), is shown as Map 51, Lot 36 on the Belmont Assessor’s Map. It is located in the Single Residence A zoning district under the Belmont Zoning Bylaw.

3. On July 14, 2020, the Town of Belmont, through the Select Board, submitted a letter commenting on the Project Eligibility Application to MassHousing raising a number of concerns about the Project. Following the Town’s comments, MassHousing requested improvements to the Project’s site design. In a revised application submitted August 12, 2020, the Applicant responded to MassHousing’s request, largely by reducing the number of units from 16 to 12, 3 of which would be affordable.

4. Following another comment letter from the Town’s Select Board on September 1, 2020, MassHousing issued a Project Eligibility Letter for the Project on November 3, 2020.

5. On November 20, 2020, the Applicant submitted a Comprehensive Permit Application (hereinafter referred to as the “Application”) to the Town of Belmont Zoning Board of Appeals (the “Board”). The Application included preliminary architectural and civil/site plans for the Project, as well as a civil engineering and stormwater management report, preliminary landscaping plan, traffic impact analysis report from the Applicant’s consultants. The Application also included a preliminary list of waivers the Applicant requested from Belmont’s Zoning and General Bylaws.

6. The Board opened a duly noticed public hearing on the Application on January 11, 2021, and continued the hearing several times.

7. Following the initial meeting of the hearing on January 11, 2021, an organization of abutters and interested Belmont residents known as Build Wise Belmont submitted a statement to the Board urging it to invoke the “general land area minimum” (hereinafter referred to as “GLAM”) safe harbor under G.L. c. 40B, § 20. Following a response from the Applicant and with input from Town staff including Glenn Clancy, P.E., Town of Belmont Director of Community Development, the Board voted not to invoke the GLAM safe harbor on January 25, 2021, by a vote of 2 in favor (Iannuzzi and

Zarkadas) and 3 opposed (Williams, Kelley, and MacNutt).

8. On August 2, 2021, the Board voted unanimously to close the public hearing. At the August 2, 2021 public hearing, counsel for the Applicant declined the request of the Chairman to further extend hearing and/or decision deadlines to consider alternative designs. Counsel for the Applicant subsequently agreed to one extension of the deadline for the Board to file its decision to October 15, 2021.

9. The Applicant is qualified to submit the Application pursuant to 760 CMR 56.04 in that it has received a Project Eligibility Letter from MassHousing that contains the required findings, including that (a) it is or will become a “limited dividend corporation” under G.L. c. 40B, § 21 and 760 CMR 56.02; (b) it has a funding commitment from the Subsidizing Agency (MassHousing); and (c) it has “control of the site” under G.L. c. 40B, § 21 and 760 CMR § 56.02 by virtue of a quitclaim deed dated November 6, 2019, signed by the prior owners, and recorded as Document No. 1827910 at Page 124 of Book 1551 of the Middlesex County Registry District of the Land Court.

10. At the time of the Application, the Town of Belmont had not met any of the statutory minima under G.L. c. 40B, § 20 or regulatory safe harbors under 760 CMR 56.00.

11. Under G.L. c. 40, § 53G, the Board retained the following consultants to conduct peer reviews of the Application at the Applicant’s expense:

- **Traffic:** BSC Group by Michael A. Santos, P.E., PTOE;
- **Civil and Storm Water:** Weston & Sampson by Jesse Johnson, P.E., and Justin Gould, P.E.;
- **Architecture:** Davis Square Architects by Cliff Boehmer, AIA.

12. The Board also accepted the assistance of Ezra Haber Glenn of Public Planning, Research & Implementation, Inc. as a consultant at the expense of the MassHousing Partnership. Mr. Glenn attended public meetings and working group sessions prior to the August 18 meeting of the Board.

13. The Board held duly noticed public hearing sessions on January 11, 2021; January 21 (focused on the invocation of the General Land Area Minimum (“GLAM”) Safe Harbor; January 25 (also focused on the GLAM Safe Harbor); February 8; March 8; April 5; May 6; June 10; July 12; July 26; and August 2, 2021. The Board deliberated on August 18, August 23, and September 2, and October 7, 2021, and voted unanimously on October 7 to issue this Decision.

14. The documents submitted to the Board regarding the Project are listed in **Exhibit**

A and constitute the Record for this decision.

15. The Board heard public comment at several of those hearing sessions and accepted public comment by email during the hearing. A group of abutters and other neighbors were represented by Dan Hill, Esq., at many hearing sessions. Attorney Hill submitted multiple written comments and arranged for comment letters by a traffic engineer, David Black, and a civil engineer, John Chessia, P.E.

16. The Board's consultants submitted initial peer review memoranda on March 29 (traffic and civil/storm water) and May 5 (architecture). The Applicant's consultants and the Board's peer reviewers exchanged multiple rounds of comments and responses and met in working sessions, as necessary, during the hearing.

17. On March 25, 2021, BSC Group submitted a peer review report of the Traffic Impact Memorandum prepared by the Applicant's traffic consultant, MDM Transportation Consultants, Inc. ("MDM"). MDM submitted a response on behalf of the Applicant on April 26, 2021. BSC Group submitted its final peer review on June 2, 2021.

18. On March 29, 2021, Weston & Sampson submitted a peer review report focused on civil engineering and storm water infrastructure at the Site. On April 23, 2021, the Applicant's consultant, DeCelle-Burke-Sala & Associates, Inc. ("Burke"), submitted a response to the peer review, accompanied by a revised engineering report dated April 22, 2021. Burke submitted further revisions dated June 1 and June 28, 2021. On July 12, 2021, Weston & Sampson submitted a final peer review report, noting that certain issues related to storm water management had not yet been resolved.

19. On May 5, 2021, Davis Square Architects (hereinafter referred to as "Davis Square") submitted a preliminary peer review report of design and architectural issues. Davis Square submitted a final peer review report on architectural issues on July 11, 2021.

20. Working groups focused on civil/storm water engineering and architectural issues were convened on May 14, May 21, June 22, and June 29, 2021.

21. The recommended conditions of each of these peer reviewers are included in the Conditions below. The Board finds that those conditions, and all other conditions in this Decision, address substantial Local Concerns that outweigh the regional need for affordable housing and are necessary for the preservation of public health, safety, and the environment.

22. On August 2, 2021, the Applicant submitted final versions of the architectural, civil/storm water, and landscaping plans (collectively, the "Final Plans").

23. According to the Final Plans, the Project will include two townhouse

apartment buildings containing 12 dwelling units. 8 units will contain 3 bedrooms, and 4 units will contain 4 bedrooms for a total of 40 bedrooms

24. According to the Final Plans, the Project will provide 21 surface-level parking spaces on the Site. Each townhouse will have a ground-level garage with one parking space. Nine additional exterior parking spaces, including one reserved for handicapped use, will be provided on-Site.

25. The Applicant submitted an initial list of requested waivers with its Application. On July 7, 2021, the Applicant submitted a revised waiver list, reducing the number of requested waivers. On August 2, 2021, the Applicant submitted a final revised waiver list (the “Final Waiver List”). The Board’s findings on the requested waivers follow below.

26. Based on all the evidence, the Board unanimously finds that, provided that the Project complies with the conditions below, the need for the affordable housing provided by the Project outweighs the Local Concerns identified during the public hearing.

27. Pursuant to G.L. c. 40B, the Board unanimously **GRANTS** a Comprehensive Permit to the Applicant for the Project based on the Waivers listed below and contingent on compliance with all of the conditions stated below. The term “Applicant” means the Applicant, its heirs, successors, and assigns. Unless otherwise stated, the Board may designate an agent or agents to take any actions or make any decisions described below.

WAIVERS

28. As reflected in its Final Waiver List submitted on August 2, 2021, the Applicant requested numerous waivers from Belmont’s local Zoning and General Bylaws. The Board’s findings on these requested waivers follow.

29. **Waiver from Zoning Bylaw § 1.3: Basic Requirements:** This section of the Zoning Bylaw generally requires compliance with its provisions. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

30. **Waiver from Zoning Bylaw § 1.6: Variation:** This section of the Zoning Bylaw generally provides that in event of conflicts between the Zoning Bylaw and other provisions of law, the more stringent restriction on the use of property shall control. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

31. **Waiver from Zoning Bylaw § 3.1: General Use Requirements:** This section of

the Zoning Bylaw prohibits certain uses or permits certain uses only by special permit, as provided in the Zoning Bylaw. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

32. **Waiver from Zoning Bylaw § 3.3: Schedule of Use Regulations:** The Zoning Bylaw's Schedule of Use Regulations prohibits or limits certain uses in certain zoning districts. The Applicant specifically requests waivers for limits on "other apartment house," "open lot parking in excess of the above accessory to residential use," and "shared driveway." To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver to permit the construction of the Project, as conditioned by this Decision, limited to 12 total dwelling units.

33. **Waiver from Zoning Bylaw § 4.1: General Dimensional and Intensity Requirements:** This section of the Zoning Bylaw generally requires that uses comply with the intensity and dimensional requirements in the Zoning Bylaw. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

34. **Waiver from Zoning Bylaw § 4.2.1: Schedule of Dimensional Regulations (Area):** This section of the Zoning Bylaw describes the dimensional requirements (area) in the Single Residence-A zoning district. The Board **GRANTS** the specific waivers as follows:

Lot Area: Required – 25,000 square feet; Requested – 23,496 square feet.

The Board finds that this waiver continues an existing non-conformity and that no modifications or limits to the requested waiver are within the scope of this Decision or subject to conditions that would render the Project uneconomic. The Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

Frontage: Required – 125 feet; 200 feet (no waiver requested).

Maximum Lot Coverage: Required – 20%; Requested – 29.9%.

The Board finds that granting this waiver in its entirety would not be Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. Specifically, denying this waiver in part serves to protect the health, safety, and welfare of the future occupants of the Project and of its neighbors, to promote better site and building design in relation to the surroundings and municipal and regional planning, and to protect the natural

environment.

The Board finds that additional open space beyond that proposed in the Final Plans is necessary to ensure adequate recreational opportunities for Project residents. The development of 12 housing units on a site just over ½ an acre in size represents a very intense use of the Site, in excess of comparable 40B projects in other communities. The lack of on-site open space is compounded by the inaccessibility of proximate public open spaces. The Final Plans provide a small area of common outdoor space and essentially no private outdoor space for each unit. The Site is not located near any public parks or playgrounds, with the nearest nearly a half-mile away in Arlington, across Frontage Road, the narrow, Route 2 pedestrian bridge, and the westbound equivalent of Frontage Road at an unsignalized, long-neglected crosswalk.

The Board further finds that the exceedance of the maximum lot coverage standard also relates to the inadequate provision of parking for Project residents. The Board finds that driving is likely to be the most common mode of transit used by Project residents. The inbound MBTA bus stop primarily provides access to the Alewife Red Line terminus, requiring a transfer and long subway ride to reach job centers. The outbound MBTA bus stop is relatively inaccessible, located across the narrow pedestrian bridge over Route 2 in Arlington. Commuting by bike is unlikely because the Site is located on a steep slope far from Belmont's planned and existing bicycle accommodations.

The Board further finds that the exceedance of the maximum lot coverage standard also relates to the impacts of the proposed Project on abutters. Reducing the lot coverage, in connection with other conditions in this Decision, will reduce the apparent Project massing from abutting properties, reduce offsite noise impacts, and enhance privacy, among other reduced impacts on abutters.

The Board further finds that reducing the lot coverage on the site is likely to limit storm water concerns, as the permeable area on-site is likely to increase, thereby reducing storm water collection on impermeable services and associated storm water management challenges. In addition, in connection with the other waivers and conditions in this Decision, a reduced lot coverage parameter is likely to limit changes to existing site conditions and in situ storm water collection and runoff.

Accordingly, the Board finds that limiting the scope of this requested waiver is Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. The Board hereby requires a maximum of 25% lot coverage in the Amended Final Plans. Accordingly, the Board hereby **GRANTS-IN-PART** this waiver.

Minimum Open Space: Required – 50%; Requested – 38.3%.

The Board finds that granting this waiver in its entirety would not be Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. Specifically, denying this waiver in part serves to protect the health, safety, and welfare of the

future occupants of the Project and of its neighbors, to promote better site and building design in relation to the surroundings and municipal and regional planning, and to protect the natural environment.

The Board finds that additional open space beyond that proposed in the Final Plans is necessary to ensure adequate recreational opportunities for Project residents. The development of 12 housing units on a site just over ½ an acre in size represents a very intense use of the Site, in excess of comparable 40B projects in other communities. The lack of on-site open space is compounded by the inaccessibility of proximate public open spaces. The Final Plans provide a small area of common outdoor space and essentially no private outdoor space for each unit. The Site is not located near any public parks or playgrounds, with the nearest nearly a half-mile away in Arlington, across Frontage Road, the narrow, Route 2 pedestrian bridge, and the westbound equivalent of Frontage Road at an unsignalized, long-neglected crosswalk.

The Board further finds that the failure to meet the minimum open space requirement in the Final Plans relates to the impacts of the proposed Project on abutters. Increasing the minimum open space requirement, in connection with the other waivers and conditions in this Decision, will reduce the apparent Project massing from abutting properties, reduce offsite noise impacts, and enhance privacy, among other reduced impacts on abutters.

The Board further finds that increasing the open space on the site is likely to limit storm water concerns, as the permeable area on-site is likely to increase, thereby reducing storm water collection on impermeable services and associated storm water management challenges. In addition, in connection with the other waivers and conditions in this Decision, an increased open space parameter is likely to limit changes to existing site conditions and in situ storm water collection and runoff.

Accordingly, the Board finds that limiting the scope of this requested waiver is Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. The Board hereby requires a minimum of 43% open space in the Amended Final Plans. Accordingly, the Board hereby **GRANTS-IN-PART** this waiver.

35. Waiver from Zoning Bylaw § 4.2.2: Schedule of Dimensional Regulations (Linear): This section of the Zoning Bylaw describes the dimensional requirements (linear) in the Single Residence A zoning district. The Board **GRANTS** the specific waivers as follows:

Front Yard Setback: Required – 30 feet; Requested – 7.7 feet.

The Board finds that throughout the public hearing, no concerns were raised regarding the proximity of the Project to Frontage Road. Nor does the Board find a compelling justification for including the walkway north of the north townhouse building on the Site, as shown on the Final Plans, rather than in the Beatrice Circle layout. Reducing the front yard setback to 0 feet increases on-Site open space and increases the setback to the rear abutters. Accordingly, the Board hereby **GRANTS** a complete waiver of this setback requirement, such that Project may be built up to the

lot line with the Beatrice Circle layout.

Side Yard Setback: Required – 15 feet; Requested – 23.3 feet (western) and >45 feet (eastern).

The Board finds that although the Applicant's final List of Requested Waivers states that a waiver is requested from the side yard setback requirements, the Final Plans do not call for either townhouse building to encroach in the side yard setback. The Board further finds that revisions reflected in the Final Plans from the initial plans substantially increased the proposed setback from the Site's western abutter, an improvement to the Project design. The Board concurs with Davis Square, the peer review architect, that an increased west side yard setback will reduce impacts on the western abutter and create programmable open space for the use of Project residents. The Board finds that the setbacks proposed in the Final Plans provide sufficient buffers to the side abutters. Accordingly, the Board finds that no waiver is required from side setback requirements, but the Board conditions the Comprehensive Permit on the Amended Final Plans adherence to the following side setbacks:

East yard: A minimum of 45 feet between the Project buildings and the eastern property line.

West yard: A minimum of 22.3 feet between the retaining wall and the portion of the south townhouse building dedicated to sprinkler housing (if the sprinkler housing is located on the west side of the townhouse in the Amended Final Plans) and the western property line; further, a minimum of 30.4' between the north townhouse building and the remainder of the south townhouse building (excluding the sprinkler housing) and the western property line. These setbacks are 1' smaller than those proposed in the Final Plans.

The Board finds that these conditions on the side yard setbacks are Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. Specifically, these conditions serve to protect the health, safety, and welfare of the future occupants of the Project and of its neighbors, to promote better site and building design in relation to the surroundings and municipal and regional planning, and to protect the natural environment.

Rear Yard Setback: Required – 40 feet; Requested – 12.1 feet.

The Board finds that granting this waiver in its entirety would not be Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. Specifically, denying this waiver in part serves to protect the health, safety, and welfare of the future occupants of the Project and of its neighbors, to promote better site and building design in relation to the surroundings and municipal and regional planning, and to protect the natural environment.

The Board finds that additional open space beyond that proposed in the Final Plans is necessary to ensure adequate recreational opportunities for Project residents. The development of 12 housing units on a site just over ½ an acre in size represents a very intense use of the Site, in excess of comparable 40B projects in other communities. The lack of on-site open space is compounded by the inaccessibility of proximate public open spaces. The Final Plans provide a small area of common outdoor space and essentially no private outdoor space for each unit. The Site is not located near any public parks or playgrounds, with the nearest nearly a half-mile away across the narrow, Route 2 pedestrian bridge in Arlington and across the westbound equivalent of Frontage Road in Arlington at an unsignalized, long-neglected crosswalk. The Board further finds that by increasing the rear setback, more usable open space will be reserved for residents of the Project.

The Board further finds that such with such a narrow rear setback and such a long southern townhouse structure (over 110 feet), the Project's massing will loom over abutters to the south on Beatrice Circle. The unbroken mass of five townhouses will appear considerably more massive to the southern abutters than the existing structure. Increasing the rear setback will reduce the apparent Project massing from abutting properties, reduce offsite noise impacts, and enhance privacy, among other reduced impacts on abutters.

The Board further finds that site-work, grading, and construction so close to the rear lot line may endanger healthy, mature trees on abutting properties. Increasing the rear setback will mitigate this risk.

The Board further finds that reducing by reducing the required front setback to zero and permitting the front walkway to be built in the Beatrice Circle layout, requiring an increased rear yard setback will necessitate only negligible changes to the design of the Project.

Accordingly, the Board finds that limiting the scope of this requested waiver is Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. The Board requires a rear setback of 26.5 feet in the Amended Final Plans. Accordingly, the Board hereby **GRANTS-IN-PART** this waiver.

Maximum Building Height: Required – 36 feet; Requested – 43 feet (north building); 30.5 feet (south building).

The Board finds that the building heights of the proposed buildings implicates substantial Local Concerns that outweigh the regional need for affordable housing, particularly concerning the massing of the Project in relation to abutters. In particular, the Board is concerned with the height of the southern townhouse building as it relates to the southern abutters on Beatrice Circle. However, the Board finds that by including more of the building massing on the north side of the Site, including through the adjustments to the front and rear setbacks as provided in this Decision, these substantial Local Concerns will be addressed satisfactorily, and this waiver is therefore Consistent with Local Needs. Accordingly, the Board **GRANTS** this waiver, provided that the heights and roofs of the Amended Final Plans show that the southern building shall not exceed 30' 6" to the midpoint of a gable roof and that the height of the northern building shall not exceed 43'

to the midpoint of a gable roof, such heights and roofs being consistent with the Applicant's Final Plans.

Maximum Building Stories: Required – 2.5 stories; Requested – 4 stories (north building), 3 stories (south building).

The Board finds that the building heights of the proposed buildings implicates substantial Local Concerns, particularly concerning the massing of the Project in relation to abutters. In particular, the Board is concerned with the height of the southern townhouse building as it relates to the southern abutters on Beatrice Circle. However, the Board finds that by including more of the building massing on the north side of the Site, including through the adjustments to the front and rear setbacks as provided in this Decision, these substantial Local Concerns will be addressed satisfactorily, and this waiver is therefore Consistent with Local Needs. Accordingly, the Board **GRANTS** this waiver. The height of any northern building shall not exceed four stories, and the height of any southern building shall not exceed three stories, consistent with the Applicant's Final Plans.

36. **Waiver from Zoning Bylaw § 4.3.5(a)(3): Garages:** The Applicant requests a waiver from provisions of the Zoning Law related to garages and access thereto. This subsection refers to garages in accessory buildings, but the garages on the Final Plans are located on the ground floor of the principal townhouse structures. Regardless, the Board finds that the internal site driveway proposed in the Final Plans and garage-under design is Consistent with Local Needs. Accordingly, the Board hereby **GRANTS** this waiver.

37. **Waiver from Zoning Bylaw § 4.3.9: Multiple Buildings:** This section of the Zoning Bylaw refers to minimum lot area and yard requirements for lots where more than one principal dwelling will be located. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver to permit the construction of more than one building on the Site.

38. **Waiver from Zoning Bylaw §§ 5.1, 5.1.1(a), 5.1.2(a), 5.1.2(i), 5.1.2(j), 5.1.3(b), 5.1.3(c), 5.1.3(d), 5.1.3(e), 5.1.3(f), 5.1.3(g), 5.1.3(h), 5.1.3(j): Off-Street Parking and Loading Regulations:** This section of the Zoning Bylaw includes numerous provisions regulating the number, design, and use of parking spaces. The Applicant requests a waiver to allow on-site parking as shown in the Final Plans. Among other key provisions, the Project would provide one parking space per unit in a ground-level, built-under garage, deeded to each unit. In addition, the Project would provide 9 surface parking spaces near the eastern boundary of the Site, with one such space dedicated to handicapped accessible use. The Final Plans therefore call for a parking ratio of 1.75 parking spaces per unit.

The Board finds that granting this waiver in its entirety would not be Consistent with Local Needs because of substantial Local Concerns that outweigh the regional need for affordable housing. The

Board finds that driving is likely to be the most common mode of transit used by Project residents. The inbound MBTA bus stop primarily provides access to the Alewife Red Line terminus, requiring a transfer and long subway ride to reach job centers. The outbound MBTA bus stop is relatively inaccessible, located across the narrow pedestrian bridge over Route 2 in Arlington. Commuting by bike is unlikely because the Site is located on a steep slope far from Belmont's planned and existing bicycle accommodations. Moreover, no street parking is available at all on Frontage Road or overnight in the neighborhood, and only a handful of spaces are available for brief periods nearby on Park Avenue. Finally, the Final Plans do not provide for adequate space for pick-ups and drop-offs or for parcel or shopping deliveries

Notwithstanding these concerns, the Board finds that it is Consistent with Local Needs and is required to permit the construction and operation of the Project to **GRANT-IN-PART** these waivers. These waivers are conditioned on the provision, in the Amended Final Plans, of at least two parking spots per unit of housing with 2-bedrooms or more, at least one parking spot per unit with 1-bedroom, the provision of handicapped-accessible parking (in an amount not less than that required by state and federal law), and the submittal of a Transportation Demand Management Plan consistent with this Decision.

39. **Waiver from Zoning Bylaw § 5.2: Signs:** This section of the Zoning bylaw regulates the size, type, and location of signs so as to protect the health and welfare of the Belmont community. The Applicant requests a waiver to permit Project signage consistent with the Final Plans. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

40. **Waiver from Zoning Bylaw § 5.3: Landscaping:** This section of the Zoning Bylaw regulates landscaping plantings, locations, and maintenance, among other provisions. The Applicant requests a waiver to permit Project landscaping consistent with the Final Plans. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

41. **Waiver from Zoning Bylaw § 5.4.1, 5.4.3, 5.4.8: Light/Glare:** This section of the Zoning Bylaw regulates the design of lighting for certain developments and requires a special permit in certain circumstances. The Applicant requests a waiver to permit light designs consistent with the Final Plans. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

42. **Waiver from Zoning Bylaw § 6.2: Earth Removal:** This section of the Zoning Bylaw prohibits earth removal in excess of 50 cubic yards unless incidental to a building permit or allowed by special permit. The Applicant requests a waiver to permit earth removal to proceed

consistent with the Final Plans. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

43. **Waiver from Zoning Bylaw § 6.10: Inclusionary Zoning:** This section of the Zoning Bylaw promotes affordable housing in Belmont by requiring affordable units in certain developments. The Applicant requests a waiver to permit the Project to proceed under the procedural and substantive requirements of Chapter 40B, which requires the provision of more affordable units (minimum 25% affordable) than the Belmont Inclusionary Housing Law (minimum of one affordable unit for a residential development of this size). To the extent provided by this Decision and allowed by the other waivers and conditions herein, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

44. **Waiver from Zoning Bylaw § 7.1: Enforcement:** This section of the Zoning Bylaw provides for the enforcement of the bylaw by the Inspector of Buildings. The Applicant requests this waiver so that the Inspector of Buildings will not enforce the waived provisions of the Zoning Bylaw. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver. This waiver shall not be construed to limit the Town's authority to enforce the provisions of this Decision and the provisions of the Zoning Bylaw not waived by this Decision.

45. **Waiver from Zoning Bylaw § 7.2: Compliance:** This section of the Zoning Bylaw provides authority to the Inspector of Buildings to ensure compliance with the Zoning Bylaw and permits issued thereunder. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver. This waiver shall not be construed to limit the Town's authority to ensure compliance with the provisions of this Decision and with the provisions of the Zoning Bylaw not waived by this Decision.

46. **Waiver from Zoning Bylaw § 7.3: Design and Site Plan Review:** This section of the Zoning Bylaw provides for design and site plan review for certain zoning permits under the Zoning Bylaw. The Applicant requests a waiver to permit the Project to proceed under the procedural and substantive requirements of Chapter 40B. To the extent provided by this Decision and allowed by the other waivers and conditions herein, the Board finds that the 40B process it has followed in considering this application has served the purpose of design and site plan review, that this waiver is Consistent with Local Needs, and that it is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

47. **Waiver from Zoning Bylaw § 7.5: Development Impact Report:** This section

of the Zoning Bylaw provides that the Board may require an applicant to fund a Development Impact Report to review whether a proposed “multi-family structure or use...could have significant, deleterious environmental, physical or social impacts...” The Board finds that the process it has followed pursuant to M.G.L. 40B, including the use of peer reviewers funded by the Applicant and a scope of review inclusive of environmental and neighborhood impacts, effectively addresses the concerns addressed by this section of the Zoning Bylaw. Accordingly, the Board hereby **GRANTS** this waiver.

48. **Waiver from Belmont General Bylaw §§ 60-800: Streets & Sidewalks:** This section of the General Bylaws regulates the use of public ways, sidewalks, and rights-of-way, such as the Beatrice Circle layout. The Board finds that permitting the Applicant access to the layout to construct and maintain the improvements shown in the Final Plans, including an ADA-compliant pathway from the sidewalk, the removal of the existing stairs, and the maintenance of existing vegetation to preserve traffic sightlines, is Consistent with Local Needs. Accordingly, the Board hereby **GRANTS** this waiver to the extent required to construct and maintain the ADA-compliant pathway, to remove the existing stairs, and to maintain vegetation so as to preserve traffic sightlines. The Board further **GRANTS** a waiver from the Streets & Sidewalks Bylaw to the extent necessary to permit the Applicant to construct the walkway shown on the Final Plans in front of the north building in the Beatrice Circle layout, so as to facilitate a 0’ front setback and the movement of the buildings to the north on the Site. Said walkway shall be no wider than 6’.

49. **Partial waiver from Town of Belmont Stormwater and Erosion Control By-Law, § 60-325:** This section of the Belmont General Bylaws regulates storm water management consistent with the Town’s obligations under state and federal law. The Applicant has requested a waiver from this bylaw solely to the extent necessary to allow an increased volume of runoff, not an increased rate of runoff. The Applicant will comply with state and federal storm water permitting requirements, as well as all other local permitting requirements including the local storm water permitting process. To the extent provided by this Decision and allowed by the other waivers and conditions in this Decision, in particular the condition requiring the Applicant to pay for continued peer review of storm water design issues through a 53G account, the Board finds that this waiver is Consistent with Local Needs and is required to permit the construction and operation of the Project. Accordingly, the Board hereby **GRANTS** this waiver.

CONDITIONS

A. Regulatory Conditions

50. All of the units shall be rental units unless a change to the tenure of the proposed units is approved in accordance with 760 CMR § 56.07(4)(a). There shall be no more than 12 dwelling units.

51. At least 25% of the units shall be and remain affordable and shall be marketed to eligible households whose annual income does not exceed 80% of AMI, adjusted for household size as determined by the Subsidizing Agency (the “Affordable

Units”). Subject to approval by MassHousing as the Project Administrator, the Affordable Units and all the other units shall be eligible to be included in the Town's Subsidized Housing Inventory (SHI) maintained by DHCD.

52. The Applicant shall notify the Town Manager, Community Development Department, and Town Counsel when building permits are issued so that the Town may prepare the request forms to add the units to the SHI. The Applicant shall cooperate with the Town in furtherance of adding the units to the SHI.

53. The Affordable Units shall remain affordable permanently, and the Project shall remain a rental project (unless a change in tenure is approved in accordance with 760 CMR § 56.07(4)(a)) so long as the Project does not comply with the Zoning Bylaw. This condition ensures that the units shall continue to serve the public purpose for which this Comprehensive Permit is granted.

54. The Affordable Units shall be dispersed throughout the Project as designated by the Applicant by agreement with the Subsidizing Agency, and they shall not be segregated from the Market Rate units. To the extent feasible and subject to the approval of the Subsidizing Agency, Affordable Units and Market Rate units shall be constructed comparably with respect to the number of bedrooms, approximate unit size, and floor location. The Affordable Units shall include similar or equivalent features and finishes as the Market Rate units.

55. The Applicant shall execute a Regulatory Agreement, countersigned by the Subsidizing Agency as required under G.L. c. 40B, and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement.

56. The Applicant shall recertify to the Subsidizing Agency annually, or less frequently as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an affordable unit. If a previously eligible tenant becomes ineligible to occupy an affordable unit, the Applicant may charge the tenant market rate rent; however, the Applicant shall comply with the Subsidizing Agency's requirements for converting another unit to an Affordable Unit. Upon request by the Town, the Applicant shall provide the Town with all necessary information to determine whether the required affordability levels are in place.

57. The Applicant shall enter into a Local Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Subsidizing Agency, the Town, and Town Counsel (the “Local Regulatory Agreement”), which shall be recorded with the Middlesex County Registry of Deeds against the Property before issuance of any building permit for the Project. The Local Regulatory Agreement shall secure the affordability of the units and their monitoring after the expiration of the Regulatory Agreement for as long as the Project is not in compliance with the Zoning Bylaw. The Town shall send a draft of the Local Regulatory Agreement to the Applicant within 60

days after the recording of the Comprehensive Permit.

58. The Local Regulatory Agreement shall (a) become effective only if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires, or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (b) require that the Project shall remain a rental project so long as it does not comply with the Zoning Bylaw; (c) require that at least 25% of the apartments shall be rented in perpetuity to low- and moderate-income households as those terms are defined in G.L. c. 40B, §§ 20-23; (d) restrict or limit the dividend or profit of the Applicant if and as required under G.L. c. 40B and 760 CMR 56.00, *et seq.*; and (e) restrict the number of allowed units as set forth in this Comprehensive Permit. If this Comprehensive Permit is modified, the Applicant and the Town shall modify the Local Regulatory Agreement if necessary to conform it to the modified Comprehensive Permit.

59. The Local Regulatory Agreement shall constitute a restrictive covenant, be recorded, be enforceable by the Town, and require that the Affordable Units remain affordable rental units in perpetuity as long as the Project is not in compliance with the Zoning Bylaw.

60. 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 and the Applicant's successors and assigns.

61. While the Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto. However, the Town may request, and the Applicant shall provide, all information that was provided to the Subsidizing Agency, and it may take any enforcement steps allowed under G.L. c. 40B and 760 CMR 56.00 regarding excess profits and affordability.

62. If and when the Local Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town.

63. Nothing in this Decision shall be deemed to limit the Town's authority to enforce this Comprehensive Permit in the legal exercise of its zoning enforcement powers. If and when the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall pay the Town a monitoring fee that is consistent with the monitoring fees required by the Subsidizing Agency.

64. To the extent allowed by the Subsidizing Agency, the Applicant shall provide local preference categories with respect to at least 66% of the Affordable Units, as requested by the Town during the initial lease-up of the Project. The Town shall be responsible for demonstrating the need for local preference to MassHousing, in order for MassHousing to approve a local preference category. The Applicant's selected affordable

housing administrator shall assist the Town in demonstrating a need for local preference.

65. The Applicant shall implement this local preference pursuant to procedures approved by the Subsidizing Agency and that comply with all applicable law. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units, shall be borne by the Applicant.

66. The Applicant shall develop a marketing plan for the Affordable Units for review and approval by the Subsidizing Agency, said plan to comply with the local preference. The Applicant shall maintain records of its marketing efforts, which the Town may review for compliance with the preference upon request. It shall submit to the Town a report on marketing activity at the Project during the initial lease-up period, demonstrating compliance with the local preference requirement.

67. The Applicant shall cooperate with the Town's preparation of any documentation required for approval of the local preference categories by the Subsidizing Agency.

68. The Applicant shall annually submit to the Town copies of all documents and information regarding its costs and revenues from the Project that it has provided to the Subsidizing Agency.

69. The Town, by and through the Board and the Inspector of Buildings, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.

70. Before receiving any building permit for vertical construction, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Inspector of Buildings and the Town. At the discretion of Town departments and officials with jurisdiction, Permits for demolition, excavation, foundations, site infrastructure/utilities, and other site preparation work may be approved prior to Final Approval.

B. General Conditions

71. Prior to applying for Final Approval from the Subsidizing Agency and for a building permit for vertical construction, the Applicant shall submit to the Inspector of Buildings fully coordinated architectural, civil engineering/storm water, structural, and landscaping plans, amended as necessary to satisfy the partial waiver denials provided for in this Decision. The Applicant shall concurrently provide copies of these "Amended Final Plans" to Town Counsel and abutters' counsel. The Amended Final Plans shall be consistent with the Final Plans, except as necessary to modify the Final Plans to comply

with the partial waiver denials and Conditions in this Decision.

72. The Project shall be constructed substantially in accordance with the Amended Final Plans and the Conditions in this Decision. The Applicant shall comply with all local by-laws, rules, and regulations of the Town of Belmont and its boards, officers, and commissions unless expressly waived in this Decision.

73. The Project shall comply with all applicable state and federal laws and regulations including, but not limited to, the following:

- a. Massachusetts State Building, Plumbing, and Electrical Codes; the Massachusetts Mechanical Code; and the Massachusetts Stretch Energy Code;
- b. Massachusetts Department of Environmental Protection (“DEP”) sewer extension regulations;
- c. DEP storm water management standards and industry best management practices (except where stricter standards are imposed in this Decision, including through the Local Storm Water Bylaw) for construction of the drainage infrastructure;
- d. Massachusetts Architectural Access Board regulations; and
- e. The Massachusetts State Fire Code.

74. All utilities on the Site shall be installed underground.

75. The Project shall be served by municipal sewer and water, at the Applicant’s sole expense, in accordance with the requirements of the Belmont Department of Public Works (DPW) and Engineering Department. All facilities shall be installed as shown on the Amended Final Plans.

76. The Applicant shall, at its own expense, retain a Registered Professional Engineer and Land Surveyor to set elevations for all appropriate work, conduct field inspections during construction, and prepare as-built plans. Site inspections by the Town or its departments or consultants shall not constitute acceptance of utilities by the Town or replace as-built approval or certification by the Applicant’s engineer.

77. The applicant shall retain a Registered Professional Engineer to certify under the pains and penalties of perjury before the issuance of the first Certificate of Occupancy the following:

I _____ based on my personal site observations, hereby certify that:

- (1) all grades, storm water management systems, water, sewer, and other utilities and appurtenances have been constructed in substantial conformance with the Amended Final Plans for the Comprehensive Permit and the construction standards of the Town of Belmont, and
- (2) the drainage and storm water management system, as constructed, will operate as designed and approved by the Board.

Signed under the pains and penalties of perjury this _ day of ___,
202_.

78. The Amended Final Plans shall be reviewed by the Inspector of Buildings for compliance with the State Building Code and this Decision.

79. All water, sewer, and drainage infrastructure facilities for the Project shall be constructed and fully operational before the issuance of the first occupancy permit.

80. No later than the Applicant's submission of Amended Final Plans, the following plans shall be submitted to the Inspector of Buildings for review and approval, which shall not be unreasonably withheld, before issuance of a building permit:

- a. Plan showing play areas, if any, including specifications for the play equipment and for the screening of play areas to mitigate noise to the adjacent properties;
- b. A comprehensive snow removal plan, which shall include measures to clear snow from the sidewalk between the Project and Frontage Road, including the MBTA bus stop, and which shall include measures to ensure that piles of snow stored on-Site in designated snow storage areas be removed from the Site as necessary and to ensure that such that piles shall not exceed 3 feet in height. It is acknowledged that the land area outside of the limits of the Project parcel is not owned or controlled by the Applicant. Accordingly, the Applicant shall not be required to engage in snow removal on public property until an acceptable agreement is reached between the Applicant and the Town authorizing the Applicant to engage in these activities on Town property, with appropriate provisions regarding costs and liability; provided, however, that the Applicant assumes the cost of constructing the new 6' walkway in front of the north building on the Beatrice Circle layout and any related liability; and further provided that the Applicant and the Town shall negotiate in good faith to conclude such agreement.

The review of these plans shall not require a new public hearing or an amendment to this Decision.

81. Except as expressly waived in this Decision, final design plans for the storm water management system shall comply with the Belmont Storm Water Bylaw and DEP regulations. The system shall be constructed consistent with the Amended Final Plans.

82. All utility work and any other roadwork in any public right of way shall be performed in compliance with the applicable regulations of the Town, including requirements for street opening permits and trench permits, except such regulations as are waived by this Decision.

83. The General Contractor shall be duly licensed in Massachusetts and insured. All construction shall be performed in accordance with accepted engineering and construction standards in Massachusetts.

84. All landscaping shall be installed before issuance of an occupancy permit unless the Applicant provides the Town with a performance bond acceptable to the Inspector of Buildings for the estimated cost to complete the installation.

85. All structures and site improvements within the Property shall remain private in perpetuity, including any and all ways, parking areas, street lighting, drainage, buildings, and sewer and water infrastructure. Notwithstanding the foregoing, this provision shall not be interpreted to limit the ability of the Applicant to convert the Project to some other form of ownership, subject to the project eligibility requirements of 760 CMR § 56.04(1). The Applicant, or its successors in title, shall bear the cost of all maintenance, repairs, replacement, snow plowing, and trash removal on the Property in perpetuity.

86. The Applicant, or its successors in title, shall provide 24/7 management of the Project, during and after construction, either by on-site management or an off-site property management entity that is available by phone. If the Applicant engages a property management company, the Applicant shall post the company's name and telephone number prominently on or adjacent to the front door of the building and shall give the Inspector of Buildings a current copy of the property management contract. The Applicant shall give the construction supervisor's telephone number to the Inspector of Buildings and the Police Department.

87. Fire hydrants, fire department connections, and related signage shall be located consistent with the Amended Final Plans and shall be approved by the Fire Department prior to the issuance of a Building Permit, such approval not to be unreasonably withheld. Prior to issuance of a Building Permit, the Applicant shall conduct a hydrant flow test to determine available flow and pressure to fight a fire, and provide the results of such test to the Fire Chief and the Department of Public Works, Water Division Manager. In the event that there is insufficient water pressure or volume for fire protection, plans shall include on-site improvements such as a fire pump or off-site improvements to the municipal water distribution system as required to maintain a residual pressure of 35 psi in the municipal water

distribution system. If any such additional site improvement proves necessary, the Applicant must obtain the Board's approval for a modification of the Permit and the Final Plans, subject to the provisions of 760 CMR § 56.07(4). The procedure for flushing, disinfecting, and pressure testing of the water mains shall be approved by the Department of Public Works.

88. The Project shall be sprinklered, including attics, parking garages, and storage spaces, as required by the International Building Code and state Fire Protection Codes. Both townhome buildings shall be sprinklered. The Applicant shall submit, in its building permit application, final fire alarm/sprinkler plans to the Fire Chief for review and approval, such approval not to be unreasonably withheld. It shall install the sprinklers in compliance with G.L. c. 148, § 261 and the State Building Code.

90. Before the commencement of construction, the Applicant shall obtain a National Pollutant Discharge Elimination System (NPDES) General Permit from Environmental Protection Agency, if necessary for construction of the Project. For the purposes of this Comprehensive Permit, "commencement of construction" shall include grubbing and clearing.

91. Before issuance of any building permit, the Applicant shall:

- a. Submit to the Inspector of Buildings a final Storm Water Pollution and Prevention Plan (SWPPP) to address specific sedimentation, erosion and dust control;
- b. Submit to the Inspector of Buildings a description of the specific operation and maintenance ("O&M") measures for all storm water/drainage facilities, including any temporary facilities required to minimize the threat of transmission of mosquito-borne diseases to the residents in and near the Project.

92. To the extent necessary, the procedure for flushing, disinfecting, and pressure testing of water lines shall be approved by the Department of Public Works, Water Division Manager, such approval not to be unreasonably withheld.

93. Fertilizer, pesticide, and herbicide use shall be minimized to the extent practicable. Fertilizer shall be phosphorus-free.

94. The use of de-icing chemicals within the Project site shall comply with any and all state, federal, and unwaived local environmental laws and regulations with respect to the use of same on residential property, as said laws and regulations may be amended.

95. All grading shall be consistent with the Amended Final Plans.

96. The Board approves the location of trash dumpsters, between the two townhouse buildings and screened with fencing, as shown on the Final Plans. Before the issuance of an occupancy permit, the Applicant shall submit to the Board of Health (with a copy to the Inspector of Buildings) an application for an annual dumpster permit pursuant to the Board of Health's Regulation Regarding the Use of Dumpsters and Rubbish Hauling, approval of which shall not be unreasonably withheld. Trucks may collect or otherwise service the solid waste and recycling containers only between 7:30 a.m. and 4:00 p.m. on Monday-Friday, or during such other hours as may be in effect pursuant to any unwaived local bylaw of the Town of Belmont.

97. All water and sewer facility construction and materials shall conform to the Amended Final Plans and this Decision.

98. The Applicant shall not enter onto private property without obtaining the necessary permission or legal right to do so, in advance; provided, however, that Paragraph 48, above, authorizes the Applicant to enter and make improvements within the limits of the Beatrice Circle right-of-way.

C. Construction and Bonding Conditions

99. The Applicant shall authorize the Inspector of Buildings, the Board, and its agents to enter the Site during construction of the Project – with at least 24 hours prior notice and subject to compliance with applicable health and safety requirements such as hardhat, safety glasses, and work boot requirements – to determine construction compliance with this Decision.

100. The Applicant shall comply with any duly-issued enforcement orders by the Inspector of Buildings regarding construction of the Project.

101. No blasting is permitted for this Project except as and in accordance with applicable state and federal law. In consultation with the Inspector of Buildings, the Applicant shall exercise reasonable best efforts to conduct any necessary excavation by an excavator, hydraulic hammer, air spade, or other appropriate machinery, rather than blasting, as conditioned by this Decision.

102. Prior to commencement of demolition or site preparation of the Project, the Applicant shall conduct a pre-construction video survey (if and to the extent required by state or federal law or unwaived local bylaws) to document the preexisting condition of each of the five abutting neighbor properties (including interior and exterior foundations), provided that the owners allow access to enable conducting said survey, and the Applicant shall provide a copy of said survey to the owners (and if an owner consents, to the Inspector of Buildings) prior to the commencement of site preparation for the Project. The Applicant shall be liable for any damages to abutting properties caused by construction activities if and to the extent provided by law.

103. During the excavation phase of the Project, Applicant shall install seismic monitoring devices along each property boundary if and to the extent required by state or federal law or unwaived local bylaws. Data shall be collected on a daily basis during all excavation activity. Data records shall be promptly filed with the Inspector of Buildings and kept by the Applicant for a period of at least one year after the issuance of the final certificate of occupancy.

104. All existing trees that are not identified on the Final Plans as to be removed during construction shall be adequately protected, and they shall be replaced by the Applicant if destroyed or significantly damaged during construction. The following conditions must be adhered to prior to any construction activities and during construction to the extent feasible and to the extent they are required by state or federal law or any unwaived local bylaws of the Town of Belmont. In the event that any of the following conditions is infeasible or unduly costly, the Applicant shall notify the Inspector of Buildings prior to the start of any work that may be inconsistent herewith and provide an explanation of the proposed work and why any of the following conditions cannot be the reasons why compliance is infeasible. Subject to these limitations, the following tree protection conditions shall apply to the Project:

- a) The Applicant shall stake the perimeter of the Site every ten feet a few inches inside the property line.
 - 1. No part of the stakes along the perimeter shall be on abutters' properties.
 - 2. Trees whose trunks straddle the property line at grade shall be assumed to be jointly owned by the Applicant and the abutter. The perimeter stakes shall be installed on the Applicant's side of jointly owned trees (if any), entirely on the Applicant's property.
- b) The Limit of Work is the limit of grading and general excavation. No construction staging or stockpiling of equipment or materials shall be placed outside the Limit of Work.
- c) The Applicant shall install a Limit of Work fence at the limit of grading and excavation as shown on the Amended Final Plans, which shall conform with the Conditions of this Decision. The fence shall be designed and installed in accordance with engineering best practices in order to prevent debris from exiting the Site and shall prevent trespassers from entering the Site. The fence shall be inspected and approved by the Inspector of Buildings prior to construction for conformance with this Decision, such approval not to be unreasonably withheld.

- d) No grading or excavation shall disturb, or undermine the ground of, the adjacent properties.
- e) The Applicant shall, if feasible, adjust plant locations whenever existing roots are encountered during excavation for root balls. When the foregoing is infeasible, the Applicant shall make best efforts to minimize root removal and disturbance.
- f) No work of any kind shall be permitted outside of the Limit of Work line, either above or below ground, except for the landscaping improvements and other improvements (such as offsite utilities) shown on the Amended Final Plans.
- g) Any excavation proposed within 50 feet of the trunk of the 50" (DBH) Northern Red Oak located near the rear property boundary on the land of 37 Beatrice Circle shall be performed using an air spade, either directly by or under the guidance of a Certified Arborist, unless the Applicant demonstrates that the roots of such tree are not present in the excavation zone or will not be disturbed by excavation by other means. In the event that roots are encountered within said 50-foot area, the Applicant's Arborist shall prepare a plan for preserving the roots or minimizing cutting in such a manner that will not threaten the overall health of the tree, and such plan shall be provided to the abutter's Arborist, Daniel E. Cathcart, for review and comment prior to any root cutting or removal.
- h) During construction of the Project, any exposed roots within thirty (30) feet of the property line shall be protected to the extent feasible as directed by a Certified Arborist.
- i) The Applicant shall use an air spade to excavate for plant pits for any plantings proposed within ten (10) feet of the property line where there are existing trees within 20 feet. In the event roots are encountered, applicant shall adjust planting locations in the field to minimize existing root disturbance. Where the foregoing is infeasible, the Applicant shall use best efforts to minimize root removal and disturbance.

105. Erosion controls shall be continuously maintained throughout the construction. Adjacent public streets shall be swept as needed to remove sediment and debris. Disturbed areas shall be brought to final finished grade and stabilized permanently against erosion as soon as practicable. Bare ground that cannot be permanently stabilized within 60 days shall be stabilized using annual rye grass following U.S. Natural Resource Conservation Service (NRCS) procedures.

106. No certificate of occupancy for any unit shall be issued until all site drainage and utility work serving the Project is completed and operational and a binder course of pavement for all driveways and parking areas serving the Project has been installed.

107. Prior to the beginning of site preparation activities, the Applicant shall provide to the Town a satisfactory surety instrument, which shall not expire unless and until it is satisfactorily replaced or released. The amount of such surety shall be determined by the Inspector of Buildings, and such surety shall be released after all site drainage and utility work serving the Project is completed and operational and a binder course of pavement for all driveways and parking areas serving the Project has been installed.

108. Before the issuance of a certificate of occupancy, a satisfactory surety instrument, which shall not expire unless and until it is satisfactorily replaced or released, shall be provided to the Town. The amount of such surety shall be determined by the Inspector of Buildings to ensure the completion all remaining required work provided on the Amended Final Plans as determined by the Inspector of Buildings, including, without limitation, landscaping. The surety shall be held in accordance with the Town's normal procedures, and it shall be released only upon the satisfactory completion of the work in question as determined by Inspector of Buildings.

109. Before the commencement of construction, the Site and Engineering Plans, finalized as necessary as provided in this Decision, shall be signed and sealed by a Massachusetts Professional Engineer and a Massachusetts Registered Landscape Architect and filed with the Inspector of Buildings, and shall include the following at a minimum:

- a. Utilities, including on-site utilities and connections to utilities in adjacent public ways, which shall conform to all requirements of the Town, private utility companies having jurisdiction, and all applicable codes;
- b. Storm Water Pollution and Prevention Plan (SWPPP) describing the mitigation of sedimentation and erosion, including details regarding temporary drainage basins; and
- c. Details of any temporary construction signs.

110. Before the issuance of a building permit, the Applicant shall submit to the Inspector of Buildings a letter from the Project architect or his/her designee confirming that the Project complies with applicable Architectural Access Board Regulations.

111. A surety instrument, which shall not expire until it is satisfactorily replaced or

released, in an amount to be determined by the Department of Public Works, shall be given to the Town by the Applicant before starting any activity authorized by this Decision in a public way, on Town property, or in any Town easement (“Authorized Activity”) to ensure the proper and timely completion of all such work.

112. Requests to reduce any of the sureties required by this Decision may be submitted as work progresses and shall include the amount of requested reduction, a list of work outstanding, and a cost estimate for that work. Any surety retained shall be based on the cost estimate of the remaining work.

113. Before the commencement of construction, the Applicant and the general contractor shall hold a preconstruction meeting with the Inspector of Buildings, DPW Director, and Town Engineer (or any of their designees) to review this Comprehensive Permit and to establish a construction and inspection schedule. The Applicant and the general contractor shall submit a Construction Management Plan for review and approval by those officials. The Applicant shall be subject to the Town’s construction bylaws.

114. The Construction Management Plan shall address the following matters:

i. Hours of construction

Construction and installation of the roadway and municipal services shall only occur Monday through Friday between the hours of 7:30 a.m. and 5:00 p.m., and there shall be no construction activity on State or Federal holidays, provided that during the months of June through August, Construction Activities may continue until 7:00 p.m. Work outside these hours shall be permitted only if and as allowed by applicable local bylaws and/or with the express permission of Belmont Police Department.

ii. Truck routes

- number of truck trips
- hours of operation for truck trips
- size of and specification of trucks
- plans to mark truck with identification placards

iii. Trash and debris removal

iv. Construction Phasing and Schedule including timing and phasing of construction site clearing; construction of roadways and utilities; buildings, etc.

v. Communications, including the Contractor’s representative(s) available 24/7 and

emergency contacts

vi. Noise and Dust Control

- Control Plan
- Mitigation Measures
- Monitoring Reporting
- Tree removal (chipping, etc.)
- Public street cleaning and repair

vii. Construction Staging

- Staging areas
- Site office trailers
- Storage trailers/containers
- Open storage areas
- Delivery truck holding areas
- Re-fueling areas

viii. Traffic and Parking (during construction)

- On-site locations
- Off-site locations
- Snow removal
- Police details (as required by the Belmont Police Department after consultation and paid for by the Applicant)
- Warning signs

115. The Applicant shall at all times use all reasonable best efforts to minimize inconvenience to residents in the general area. During construction, the Applicant shall provide means to secure the front entrance to the Site at appropriate times to protect against unauthorized entry or vandalism, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent undue spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.

116. Before starting any Authorized Activity, the Applicant shall provide to the Inspector of Buildings:

- a. The company, name, address and business telephone number of the general contractor or its agent available 24/7 who shall have overall responsibility for construction activities on site;

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- b. A copy of a municipal lien certificate showing that all taxes, assessments and charges due on the Property have been paid;
- c. Certification that all required federal, state and local licenses and permits for said Authorized Activity has have been obtained;
- d. Evidence that Dig-Safe was notified at least 72 hours before, if applicable.
- e. Proof that street signage is in place to ensure that emergency personnel can locate the Site to protect and secure the Site and construction personnel; and
- f. At least 48 hour written notice. If activity on the Site ceases for longer than one month, notice shall be given again before work is resumed.

117. The Applicant shall obtain a Street Opening Permit from the DPW before starting work in a public way if and as required by state or federal law or unwaived local bylaw. The application for such a permit will trigger the Town's mark-out of its utilities.

118. During construction, at the end of each work-day, the Applicant shall ensure that all erosion control measures are in place and secure all materials and equipment. Upon completion of all work on the Site and before as-built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations, and the Applicant shall notify the Inspector of Buildings in writing of the final disposition of the materials.

119. Covered dumpster(s) shall be used during construction to keep debris within the Site, and the Applicant shall be responsible for the prompt removal of any debris which escapes enclosure. Use of the dumpster(s) shall be limited to the duration of the active construction period.

120. All fill used in connection with this Project shall be clean fill, as approved by the applicable Town of Belmont department or official with jurisdiction. No fill shall contain any trash, refuse, rubbish or debris, including, but not limited to: lumber, brick, asphalt, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, appliances, motor vehicles or any part of the foregoing. Any fill subject to specialized disposal in conformance with current environmental criteria shall not be used.

121. Within 45 days of the completion of construction, the Applicant's site engineer of record shall certify per the language below that the Project was constructed in substantial conformance with the Amended Final Plans and this Decision.

I _____ the site engineer of record hereby certify under the pains and penalties of perjury was constructed in substantial conformance with the Amended Final Plans and this Decision of the Belmont Zoning Board of Appeals dated _____

Signed under the pains and penalties of perjury this _ day of ___,
2021.

122. Before the issuance of the first certificate of occupancy, the Applicant shall submit to the Inspector of Buildings for review and approval a set of draft As-Built Plans, and a .pdf copy, of all improvements (including all water, sewer, drain, and other utilities) and evidence of substantial compliance with this Comprehensive Permit and any other permits required for the Project. All utilities must be in working order (pressure tested, etc.) before the certificate will be issued. Before the issuance of the final certificate of occupancy, the Applicant shall submit to the Engineering Department for review and approval a mylar of the final As-Built Plans stamped by a Registered Professional Engineer, a .pdf copy, and AutoCAD plans in a version approved by the Engineering Department, and shall submit a paper copy to the Inspector of Buildings.

123. All on-Site catch basins, detention basins, infiltration systems, and other storm water management facilities shall be cleaned at the end of construction. The Applicant shall provide notice to the Department of Public Works at the end of construction so that the Department can clean out the adjacent catch basin in Frontage Road. Thereafter, the Applicant and its successor shall be responsible for maintaining the on-Site storm water management facilities in accordance with generally accepted practice.

124. The Applicant or its successors shall be permanently responsible for the following:

- a. All plowing, sanding, and snow removal. Snow shall be piled in designated locations shown on the Amended Final Plans and comprehensive snow removal plan. If snow narrows any travel area on the Site to less than 18 feet and all designated snow removal locations have been filled, the Applicant shall transport snow from the Site for legal disposal at the direction of the Fire Chief. Snow accumulations at the Site entrance shall not be more than 3' high or impair sight distances for vehicles;
- b. All Site maintenance and a regular schedule for that maintenance;
- c. Repair and maintenance of all on-Site driveways and infrastructure;
- d. Annual inspection, maintenance and cleaning of all elements of the drainage

system, including but not limited to catch basins, drain manholes, detention basins, swales, and pipelines;

- e. Operation and maintenance of the water and sewer service from the connection at the Town-owned mains;
- f. Maintenance of any easements shown on the Final Plans; and
- g. Site lighting.

125. Before issuance of a certificate of occupancy, the Applicant shall review the proposed location of equipment and mail boxes, including parcel delivery areas, with the Postmaster and install any required infrastructure.

126. Before any Authorized Activity, the Applicant's final construction plans shall provide for compliance with all applicable laws and regulations regarding noise, vibration, dust, sedimentation control, and blockage of Town roads, and the Applicant shall install aprons at entry points and provide for dust control in the form of sweeping and spraying of water whenever necessary.

127. No stumps or construction debris shall be buried or disposed of at the Site.

128. The Applicant shall use all means available to them to minimize inconvenience to residents in the vicinity of the Property during construction.

129. The Applicant shall use best efforts to route all construction vehicles to access and egress the Site via Route 2 and Frontage Road and not Beatrice Circle and similar neighborhood streets. All construction vehicles shall park on the Site or other locations approved in the construction management plan. The Applicant's agents, representatives, and/or employees shall not park their motor vehicles or construction equipment on Beatrice Circle or surrounding streets unless permitted by law. Public transportation is strongly recommended.

D. Special Conditions

130. This Comprehensive Permit may be transferred only as provided by 760 CMR 56.05(12)(b).

131. Any changes to the Project after issuance of the Comprehensive Permit shall be reviewed by the Board in accordance with 760 CMR 56.05(11). Proposed adjustments to the Amended Final Plans shall be submitted to the Inspector of Buildings, who may determine whether the adjustment constitutes a "change". Minor adjustments may be approved by the Inspector of

Buildings. Any proposed insubstantial or substantial change shall be submitted to the Board under applicable regulations.

Traffic & Parking

132. The Applicant shall maintain sight lines pursuant Section 4.3.7 of the Zoning Bylaw and AASHTO standards. The Applicant shall maintain the Beatrice Circle layout between the Site and Frontage Road such that clear sight triangles are maintained within 10 feet of the sidewalk and such that all plantings and other obstructions are no higher than 3 feet in height above street level. Specifically, the sight triangle area shown on the plan labelled “Exhibit 5” and intended to be attached to MDM Consultants’ April 26, 2021 technical memorandum shall be graded and cleared of vegetation as necessary to provide clear sight lines within the sight triangle. The sight triangle shall thereafter be perpetually maintained and kept clear by the Applicant and its successors.

133. Before issuance of a certificate of occupancy, the Applicant will provide bicycle parking on the Site in a number to be determined in consultation with the Town and at the location shown on the Amended Final Plans.

134. Before the issuance of a building permit, the Applicant shall obtain any required permits, from the Massachusetts Department of Transportation or otherwise, to improve the crosswalk across Frontage Road in conformity with the Final Plans. The crosswalk improvements shall include, without limitation, a new ADA accessible ramp to access the pedestrian bridge over Route 2, a pedestrian warning sign, and a rectangular rapid flashing beacon. No certificate of occupancy shall issue until the aforesaid improvements are completed. Notwithstanding the foregoing, if despite the Applicant’s reasonable best efforts, approval for any of the foregoing improvements is not granted by the authority in question, the Applicant shall notify the Board of the same. In such case, the Board may require the Applicant to request a modification of this provision in accordance with 760 CMR § 56.05(11).

135. Before the issuance of an occupancy permit, the Applicant shall submit a Transportation Demand Management Plan (“TDM Plan”) to the Inspector of Buildings for review and approval, such approval not to be unreasonably withheld. The TDM Plan shall address, among other issues, 1) how the surface parking spaces will be allocated to residents and guests, 2) how delivery and passenger (taxi/Uber) vehicles will be accommodated, 3) how the Applicant will encourage residents and their guests to comply with on-street parking regulations in the neighborhood, 4) how the Applicant will encourage residents and their guests to take public transit, 5) how loading and unloading needs will be accommodated on-site 6) whether a surface parking space(s) should be allocated to car-sharing (e.g., Zipcar,

Getaround, etc.), and 7) the feasibility of providing electric vehicle charging facilities.

136. Before the issuance of an occupancy permit, the Applicant will discuss methods for facilitating school bus pick-up/drop-off with the Belmont School Department, including potential access for busses to the Site. The Applicant will provide evidence of such discussions to the Inspector of Buildings.

137. Once the Project reaches 80% occupancy, but not later than two years after issuance of the final certificate of occupancy, the Applicant shall conduct and submit to the Inspector of Buildings a traffic study that measures the traffic impacts in comparison to the projections in the traffic analyses reviewed by the Board during the hearing process. Among other subjects, the study shall examine: 1) the effect of the crosswalk improvements on the speed of vehicles on Frontage Road, 2) measures to facilitate the use of the MBTA bus stop, 3) measures to facilitate school bus pick-up and drop-off, and 4) any further mitigation measures that may be warranted to protect pedestrians and calm traffic on Frontage Road, including the feasibility of closing the right lane of Frontage Road to traffic.

138. Before the issuance of an occupancy permit, the Applicant shall install “one way” or “right turn only” signage at the base of the driveway.

Storm Water Management and Civil Engineering

139. The Applicant has substantially withdrawn its request for a waiver from the Belmont Storm Water Bylaw. The Applicant shall comply with the permitting process under the Belmont Storm Water Bylaw. As noted above, the Board has granted the Applicant’s request for a partial waiver from the Belmont Storm Water Bylaw solely to the extent necessary to allow for increased runoff volumes, but not an increase in the peak rate of runoff. In addition to obtaining a permit under the Belmont Storm Water Bylaw, the Applicant shall comply with the conditions in this section of the Decision.

140. After demolition of existing structures, before construction of the Project, and before the Applicant submits its application under the Belmont Storm Water Bylaw, the Applicant will conduct confirmatory test pits within the existing building footprint and will submit the results to the Engineering Department for review and approval to confirm that the actual soil texture and seasonal high groundwater are consistent with those reflected in the Final Plans. A Massachusetts Professional Engineer or Licensed Soil Evaluator shall complete any confirmatory testing. Such person shall observe soil conditions in the subsurface storm water disposal area. The Applicant shall relocate or modify the design of the facility if necessary because of impervious soils or bedrock. Those observations shall be witnessed by the Town Engineer or its designee, and by a licensed soil evaluator at the Applicant’s expense if the Town Engineer deems it necessary.

141. The storm water infiltration system shall not be located within 10.0 feet of any

building foundation.

142. Consistent with the Belmont Storm Water Bylaw permitting process, prior to beginning site work and ledge removal, the Applicant shall submit design and engineering documents for the storm water system, including, but not limited to, product information, shop drawings, and calculations stamped by a registered professional engineer. The submitted documentation must be reviewed and approved by the Town Engineer and the Town's peer review engineer before a building permit shall be issued and construction commences. Town staff and the Town's peer review engineer may make site visits during construction to confirm conformance and review changes necessitated by field conditions. The Applicant shall continue to fund a 53G account to pay the peer review engineer for this purpose.

143. Prior to beginning site work and ledge removal and before the Applicant submits its application under the Belmont Storm Water Bylaw, the Applicant shall submit design and engineering documents for the proposed retaining wall on the east side of the Site, including, but not limited to, product information, shop drawings, calculations (including a global stability analysis) stamped by a registered professional engineer. Said retaining wall shall be setback from the eastern property line at least as much as shown on the Final Plans, and the Applicant shall analyze the feasibility of increasing the setback to said retaining wall. The submitted documentation must be reviewed and approved by the Town Engineer and the Town's peer review engineer before a building permit shall be issued and construction commences. Such review and approval shall not be unreasonably withheld or delayed. Town staff and the Town's peer review engineer may make site visits during construction to confirm conformance and review changes necessitated by field conditions. The Applicant shall continue to fund a 53G account to pay the peer review engineer for this purpose.

Design

144. There shall be no exterior balconies facing the side or rear yards.

145. The Applicant has not requested and the Board does not grant a waiver of the Town's noise bylaw. The Applicant shall screen any visual and noise impacts from HVAC equipment to abutting properties by installing fencing, sound baffling, and vegetation next to any such equipment not located on the north side of Project buildings.

146. Before issuance of a building permit, the following aspects of the Project shall be administratively reviewed and reasonably approved by the Inspector of Buildings. To facilitate such review, the Applicant shall provide samples of building materials and colors:

- a. Coordination of façade development;
- b. Preliminary materials and colors; and
- c. Final materials and colors.

Construction of the Project shall be consistent with the approved materials.

147. The Project shall be accessible as described in the “Narrative on Disabled Accessibility” section of the Application, which is incorporated into these Conditions.

Landscaping

148. The parking court shall be constructed with pavers, as shown in submitted landscaping plans, not asphalt. The site driveway may be constructed with asphalt.

149. The landscaping plans shall be amended as necessary to coordinate with the storm water plans, particularly regarding snow storage. In addition, the landscape plans shall be amended as necessary to indicate the materials for the site parking court and driveway, with pavers required for the parking court.

150. All exterior lighting at the Site shall be Dark Sky-compliant and shall not allow spillover of light onto adjoining properties in excess of that permitted by law. The Applicant shall assess the feasibility of using ground-level fixtures rather than light poles.

151. The Board approves, and the Applicant shall complete, the property-boundary landscaping as shown on its final landscape plan in the Final Plans, except for the following:

- The row of 20 Emerald Green Arborvitae on the southern/rear property line shall be modified to include a mix of the faster-growing “Green Giant” Arborvitae, Norway Spruce, and other dense evergreen species. The Applicant shall make reasonable best efforts to install tall trees (15-25 feet) that will provide immediate audiovisual screening.
- The Applicant shall consult with the Neighbors’ arborist in the final property-line landscaping design.
- A six-foot tall, pressure-treated, western red cedar fence (unpainted and ¾” thick) with diagonal lattice on the top (or reasonable equivalent acceptable to the southern abutters) shall be installed and perpetually maintained along the southern/rear property boundary to mitigate cut-throughs onto abutting property.
- Once the Project reaches 80% occupancy, but not later than two years after issuance of the final certificate of occupancy, the Applicant shall, conduct and submit to the Inspector of Buildings a landscaping study taking into consideration the factors delineated in Paragraph 104.

Nuisances

152. Before the commencement of construction, the Applicant shall submit a rodent and pest management plan to the Board of Health for review and approval (with a copy to the Inspector

of Buildings), such approval not to be unreasonably withheld. In constructing the Project, the Applicant shall strictly adhere to that plan as approved.

153. The Applicant shall promptly (a) report all complaints regarding rodents and other pests to the Belmont Board of Health and the Inspector of Buildings, (b) investigate the complaints and report the results of any such investigations to them, and (c) take corrective measures to eliminate the nuisance to the extent it is attributable to the Project.

E. Lapse

154. This Comprehensive Permit shall lapse three years from the date that it takes final effect (i.e., the date that it is filed with the Town Clerk, subject to tolling in the event of any appeal and as provided in 760 CMR 56.05(12)(c)) unless construction on the Project has commenced within such period.

155. Construction under this Comprehensive Permit shall be completed within five years from the date the Permit takes final effect.

156. The Applicant may apply to the Board for extensions of these deadlines under 760 CMR 56.05(12) before any lapse occurs.

F. Waivers

157. The Applicant shall comply with the Belmont Zoning Bylaw and all other Town regulations in effect on the date the Application was filed with the Board except as expressly waived in this Decision.

G. Validity, Modification, and Appeal

158. In the event an authority of appropriate jurisdiction determines that any provision of this Decision is illegal and unenforceable, such provision may be severed and stricken from this Decision without affecting the validity of the remaining provisions of this Decision.

159. This Comprehensive Permit shall not be valid until it is recorded with the Registry of Deeds and evidence of such recording is submitted to the Inspector of Buildings.

160. Any modification of this Comprehensive Permit shall be subject to 760 CMR 56.00.

161. Any person aggrieved by this Decision may appeal within 20 days as provided by G.L. c. 40B, §§ 20-23.

(Chair's signature follows on next page)

Belmont Board of Appeals
Decision 21-01 – 40B Comprehensive Permit
91 Beatrice Circle, Belmont, MA

Dated this 13th day of October 2021.

Board of Appeals



By: _____
Nicholas A. Iannuzzi, Jr.
Its: Duly-authorized Chair

EXHIBIT A – The Record

Note: Record items are hyperlinked, if available, and on file with the Office of Community Development.

1. **91 Beatrice Circle – Preliminary Information** (<https://www.belmont-ma.gov/zoning-board-of-appeals/pages/91-beatrice-circle-preliminary-information>)
 - a. Compiled Mass Housing Application 91 Beatrice Circle – 1 of 2 (May 12, 2020)
 - b. Compiled Mass Housing Application 91 Beatrice Circle – 2 of 2 (May 12, 2020)
 - c. 91 Beatrice Circle Mass Housing Cover Letter (May 13, 2020)
 - d. Comprehensive Permit Process, Memorandum to Belmont Select Board (June 11, 2020)
 - e. Belmont Comment Letter to MassHousing on Site Eligibility Application (July 14, 2020)
 - f. Applicant’s Supplement to Site Eligibility Application to MassHousing (August 12, 2020)
 - g. Belmont Second Comment Letter to MassHousing on Site Eligibility Application (September 1, 2020)
 - h. Project Eligibility Approval Letter from MassHousing (November 3, 2020)
2. **Comprehensive Permit Application** (<https://www.belmont-ma.gov/zoning-board-of-appeals/pages/91-beatrice-circle-comprehensive-permit-application>) (November 20, 2020)
 - a. Application Cover Letter
 - b. Supplemental Materials (full engineering and traffic reports)
 - c. Tab 01 – Proof of Limited Dividend Entity Status
 - d. Tab 02 – Evidence of Site Control (Property Deeds & Assignment)
 - e. Tab 03 – Development Team Information (Resumes)
 - f. Tab 04 – Project Eligibility Letter
 - g. Tab 05 – Town Maps
 - h. Tab 06 – Photos of Site & Adjacent Uses
 - i. Tab 07 – Engineering Plans
 - j. Tab 08 – Wetlands
 - k. Tab 09 – Flood Insurance Rate Maps
 - l. Tab 10 – NHESP Certified Vernal Pool
 - m. Tab 11 – NHESP Species Map
 - n. Tab 12 – Historic Site Information
 - o. Tab 13 – Architectural Plans
 - p. Tab 14 – Tabular Building Analysis

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- q. Tab 15 – Landscaping
- r. Tab 16 – Engineering Report
- s. Tab 17 – Traffic Report
- t. Tab 18 – List of Requested Waivers
- u. Tab 19 – Subsidized Housing Inventory
- v. Tab 20 – Abutters List

3. **GLAM Safe Harbor Information** (<https://www.belmont-ma.gov/zoning-board-of-appeals/pages/91-beatrice-circle-glam-safe-harbor-information>)
 - a. Build Wise Belmont Position Statement (January 13, 2021)
 - b. Build Wise Belmont Summary of Calculations (January 13, 2021)
 - c. Stantec Memorandum Calculating Belmont GLAM (January 15, 2021)
 - d. Exhibits to Stantec GLAM Memorandum (January 15, 2021)
 - e. Applicant's Legal Analysis of GLAM Calculation (January 15, 2021)
 - f. Town Counsel Safe Harbor Memorandum (January 19, 2021)
 - g. Town Counsel Comparison Summary (January 19, 2021)
 - h. Build Wise Belmont Opposition to Town Counsel Analysis (January 19, 2021)
4. **Project Overview Presentation** (<https://www.belmont-ma.gov/zoning-board-of-appeals/pages/91-beatrice-circle-public-hearing-presentations-and-submittals>) (January 11, 2021)
5. **Abutters' Traffic Memorandum by R. David Black, CEng** (February 4, 2021)
6. **Traffic Peer Review Report** (https://www.belmont-ma.gov/sites/g/files/vyhli6831/f/uploads/2021-03-25_traffic_peer_review_-_91_beatrice_circle.pdf) (March 29, 2021)
7. **Stormwater Peer Review** (https://www.belmont-ma.gov/sites/g/files/vyhli6831/f/uploads/belmont_beatrice_circle_peer_review_1_0_02.pdf) (March 29, 2021)
8. **Fire Chief's Letter to Board** (https://www.belmont-ma.gov/sites/g/files/vyhli6831/f/uploads/91_beatrice_circle_fire_chiefs_letter_to_the_board.pdf) (April 6, 2021)
9. **Vehicle Volume and Speed Data** (https://www.belmont-ma.gov/sites/g/files/vyhli6831/f/uploads/217884-belmont_atrs.pdf)
10. **MDM Transportation Response Memorandum** (https://www.belmont-ma.gov/system/files/uploads/1088_response_memo01_final_04262021_2.pdf) (April 26, 2021)

11. **Stormwater Materials** (<https://www.belmont-ma.gov/zoning-board-of-appeals/pages/91-beatrice-circle-stormwater-materials-received-5-3-21>) (May 3, 2021)
 - a. Revised Final Compiled 91 Beatrice Engineering Report
 - b. 91 Beatrice Proposed Site Plan - Revised April, 2021
 - c. 91 Beatrice Circle Peer Review Response Letter April 23, 2021
12. **Planning Board Memo** (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/final_memorandum_regarding_91_beatrice_circle_pb_memo.pdf) (May 5, 2021)
13. **Preliminary Architectural Peer Review** (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/91_beatrice_circle_preliminary_peer_review.pdf) (May 5, 2021)
14. **Chisholm Comment Letter on Transportation Issues** (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/memo_for_zba_on_transportation_peer_review_and_response_chisholm.pdf) (May 19, 2021)
15. **Traffic Peer Review Final Comment Letter** (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/2021-06-02_traffic_peer_review_-_91_beatrice_circle.pdf) (June 2, 2021)
16. **Revised Civil and Architectural Plans & Reports June 3, 2021** (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/2021-06-03_revised_civil_and_architectural_plans_reports.pdf) (June 3, 2021)
17. **Revised Architectural Plans** (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/20004_91_beatrice_circle_archlacivil_presentation_061021.pdf) (June 10, 2021)
18. **Applicant's Letter to Board Regarding Ownership/Control of Frontage Road/Beatrice Circle** (June 18, 2021)
 - a. Letter to David B. Lyons (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/letter_to_david_b_lyons_6_18_2021.pdf)
 - b. Taking Plan (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/taking_plan.pdf)
 - c. Route 2 Taking (Recorded) (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/route_2_taking_recorded.pdf)
 - d. Frontage Road - MassDOT Road Inventory (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/frontage_road_-_massdot_road_inventory.pdf)
19. **Revised Civil and Architectural Plans & Reports** (https://www.belmont-ma.gov/sites/g/files/vyhlf6831/f/uploads/2021-07-06_revised_civil_and_architectural_plans_reports_.pdf) (July 6, 2021)

20. **Revised Open Space Calculations and Waiver List** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/july_6_2021_open_space_and_waiver_plan.pdf) (July 6, 2021)
21. **Abutters' Tree Assessment and Appraisal** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/tree_assessment_and_appraisal.pdf) (July 6, 2021)
22. **Revised Landscape Plans** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/91_beatrice_-_revised_landscape_7-7-21.pdf) (July 7, 2021)
23. **Revised Architectural Plans** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/20004_91_beatrice_circle_archlacivil_presentation_071221.pdf) (July 12, 2021)
24. **Abutters' Final Presentation to ZBA** (July 26, 2021)
25. **Applicant's Final Architectural Plans** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/20004_91_beatrice_circle_cppps_architectural_080221.pdf) (August 2, 2021)
26. **Applicant's Final Civil Plans and Site Plan** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/20004_91_beatrice_circle_cppps_civil_080221.pdf) (August 2, 2021)
27. **Applicant's Final Landscape Plan August 2, 2021 - Landscape Plan** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/20004_91_beatrice_circle_cppps_landscape_080221.pdf)
28. **91 Beatrice Circle Applicant's Final Plan August 2, 2021 - List of Required Waivers** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/waiver_list_-_91_beatrice_circle_rev8_2_2021.pdf)
29. **Summary Table of Potential Dimensional Requirements for 91 Beatrice Circle (for Board Discussion)** (https://www.belmont-ma.gov/sites/g/files/vyhlif6831/f/uploads/summary_table_of_potential_dimensional_requirements_for_91_beatrice_circle_for_board_discussion1320832.pdf) (August 18, 2021)
30. **Draft Decision** (August 26, 2021)

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31. Mullin Rule Compliance Attestation (completed by Vice-Chair James Zarkadas)

32. Meeting Minutes (from meetings dated January 11, January 21, January 25, February 8, March 8, April 5, May 6, June 10, July 12, July 26, August 2, August 18, August 23, September 2, and October 7, 2021)

33. Miscellaneous Comments and Correspondence from the Public