

[PROPOSED] REVISED CONDITIONS OF COMPREHENSIVE PERMIT

APPLICANT: Harborlight Community Partners
283 Eliot Street
Beverly, MA 01915

SUBJECT PROPERTY: 466 Highland Street
Hamilton, MA 01982
Assessor's Map 20, Lot 11

DECISION

Based on the foregoing findings, the Hamilton Zoning Board of Appeals grants the Comprehensive Permit subject to the following modified conditions:

CONDITIONS

A. REGULATORY CONDITIONS

1. The total number of dwelling units that may be constructed is 45 units with a mix of 10 one-bedroom units, 25 two-bedroom units, and 10 three-bedroom units as shown on the Approved Plans referenced in Condition ~~V~~.B.1. below.

2. The 45 units shall consist of rental housing. All of the units shall be affordable at no more than ~~68~~80% area median income and shall comply with all DHCD qualified subsidy requirements and shall be eligible for inclusion in the Town of Hamilton's Subsidized Housing Inventory ("SHI") with DHCD.

3. The 45 affordable units shall remain affordable and eligible for inclusion in the Town's SHI in perpetuity or for so long as the Project is not in compliance with the Town of Hamilton Zoning Bylaws so that the units continue to serve the public purpose for which this permit was granted under the Massachusetts Comprehensive Permit Law.

4. The Applicant shall execute a Regulatory Agreement with the subsidizing agency as required by the Comprehensive Permit Law and submit annual reports to the subsidizing agency in accordance with the Regulatory Agreement.

5. The Applicant shall comply with all requirements of the Regulatory Agreement for ensuring that the affordability requirements remain in place, and shall provide the Town with any and all information necessary to maintain and enforce affordability restrictions in accordance with paragraph ~~V~~.A.3.

6. The Applicant shall develop a marketing plan for the Project for review and approval by the subsidizing agency and shall comply with all affirmative action or other requirements imposed by state or federal regulation.

7. The Applicant shall ~~pursue market the initial rent-up of the Project under~~ a local preference requirement to the extent allowable approved by the subsidizing agency, and shall assist the Town in submitting evidence necessary to support the local preference requirement.

8. The Town, by and through the Board or its designee, shall have continuing jurisdiction to ensure compliance with the terms and conditions of this decision.

9. 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 Building Commissioner and the Board prior to receiving any building permit for the Project.

B. GENERAL CONDITIONS

1. The Project shall be constructed substantially in compliance with the following plans which shall be considered the Approved Plans ("Approved Plans") for the Project:

- a. Architectural Plans prepared by SV Design dated 2/18/22;
- b. Landscaping Plan prepared by SV Design and BSC Group dated 2/25/22;
- c. Septic System Design Plan prepared by Hancock Associates dated 10/26/22, and revised Septic System Design Plan dated 12/9/22;
- d. Preliminary Site and Utility Plan prepared by Hancock Associates dated 2/18/22, as revised through 10/25/22;
- e. Mounding Analysis dated 9/27/22;
- f. Conceptional Subdivision Plan by Hancock Associates dated 10/25/22

2. Minor changes to the Approved Plans may be submitted to the Building Commissioner who shall have authority to approve such changes as immaterial to the terms and conditions of this decision. If the Building Commissioner determines the proposed changes do not comply with the terms and conditions of this decision, the Applicant may seek modification with the Board pursuant to 760 CMR 56.05(11).

3. The Applicant has requested, and the Board has granted, certain specified waivers from the Hamilton Zoning Bylaw, as reflected in Exhibit A. No other waivers are granted. If the Approved Plans or Final Plans (defined below) show the need for a waiver not set forth in Exhibit A, the Applicant must seek approval from the Board pursuant to the provisions of 760 CMR 56.05(11). No waiver of building permit or inspection fees, water connection fees, or other fees or charges of any kind have been granted.

4. But for the two waivers granted in Exhibit A, the Applicant shall comply with the Hamilton Zoning Bylaws, and any and all local bylaws, codes, rules, or regulations of the Town of Hamilton.

5. In addition to the terms and conditions of this decision, the Project shall comply with all state and federal laws, codes, regulations and standards applicable to the Project.

6. The terms and conditions of this decision shall be binding on any successors or assigns of the Applicant, and the terms and conditions shall run with the land. The ownership entity (non-profit or for-profit limited dividend organization) requirement and affordability requirements shall apply to any successor in interest regardless of the sale, transfer or assignment of the Project.

7. The access/egress roadway, stormwater management and drainage systems, septic and water infrastructure, and any and all other Project related infrastructure or improvements shall remain private. The Town of Hamilton shall have no obligations or legal responsibility for the maintenance of the foregoing, including but not limited to snow and trash removal and landscape maintenance.

8. The interior and exterior of all buildings and structures shall be constructed substantially as represented in the Approved Plans.

9. All utility work and roadwork within any public right of way shall be performed and conducted in conformance with the regulations of the Town and MassDOT, if applicable, including requirements for street opening permits, curb cuts, or trench permits. Contractors shall be duly licensed as required by the Town. All such work shall be performed in accordance with the Approved Plans.

10. The Applicant shall provide professional management of the Project, including 24/7 monitoring of the Project, either by on-site management or by an off-site

management entity that is available by phone 24/7. The Applicant shall post the name and telephone number of the manager in a prominent place within the building and shall provide the Board and Town with details concerning property management in writing.

11. The Project shall be sprinklered in accordance with applicable state and NFPA standards, including attics and storage spaces. The Applicant shall submit final fire alarm/sprinkler plans in compliance with applicable codes to the Fire Chief for review and approval.

12. All grading shall be consistent with the Approved Plans.

13. There shall be no telecommunication equipment, cell arrays or antenna affixed to the roof or sides of the building, except that, upon the agreement of the Property owner, the Town of Hamilton may place such equipment, arrays, or antenna in those locations.

14. The Board and its agents may enter the Project site during construction of the Project (subject to conformance with applicable health and safety requirements, including, but not limited to hard hat, safety glasses, reflective vests and work boot requirements), upon reasonable notice, to determine compliance with this decision.

15. The Applicant shall comply with orders issued by the Building Inspector regarding construction of the Project, subject to the Applicant's rights of appeal under applicable law.

16. Prior to starting any activity authorized under this decision ("Authorized Activity"), including but not limited to clearing, excavation, or other land disturbing activities precedent to construction of the Project, irrespective of whether the work requires a building permit, the Applicant and the general contractor shall hold a preconstruction meeting chaired by the Building Inspector, with municipal staff and officials of his choice, to review this decision, the Approved Plans, and proposed implementation. In conjunction with this meeting, the Applicant shall provide the Building Inspector with the following:

a. A lighting plan which conforms with all state, federal or local regulations which shall adequately ensure against light trespass issues or nuisance conditions.

b. Final engineering drawings and plans ("Final Plans") that conform to all terms and conditions of this comprehensive permit and all conditions and requirements of other permitting agencies or officials having jurisdiction.

c. Peer review fees reasonable and necessary to assist the Building Inspector in confirming compliance with the terms and conditions of this decision in the Final Plans.

17. Prior to starting any Authorized Activity, the Applicant shall provide to the Building Inspector:

- a. the company affiliation, name, address and business telephone number of the construction superintendent who shall have overall responsibility for construction activities on the Property;
- b. a copy of a municipal lien certificate showing that all taxes, assessments and charges due on the Project site have been paid;
- c. certification that all required federal, state and local licenses and permits have been obtained;
- d. proof that "Dig-Safe" has been notified at least 72 hours prior to the start of any site work;
- e. proof that street signage is in place to ensure that emergency personnel can locate the site to provide emergency services; and
- f. written notice of at least 48 hours. If activity on site ceases for longer than one month, 48 hour written notice shall be given prior to restarting work.

18. To the extent consistent with the Project's Stormwater Pollution and Prevention Plan and the NPDES requirements therein ("SWPPP"), which shall control in the event of inconsistency, eErosion and sedimentation control measures shall include the following:

- a. The contractor shall have a stockpile of materials required to control erosion on-site to supplement or repair erosion control devices, including but not limited to straw wattles, catch basin filter bags and crushed stone;
- b. The contractor is responsible for erosion control on site and shall utilize erosion control measures where needed, regardless of whether the measures are specified on the Approved Plan or in this decision;
- c. Materials such as gravel to be removed shall be stockpiled, separating the topsoil for future use on the site;
- d. Erosion controls shall be utilized on the stockpiles if they are to remain on site for more than three weeks;
- e. If intense rainfall is anticipated, the installation of supplemental straw bale dikes, silt fences, or armored dikes shall be implemented.

19. During construction, to the extent consistent with the Project's SWPPP, which shall control in the event of inconsistency, the Applicant or its agent shall conduct and document inspections of all erosion control measures no less than weekly, and prior to and following anticipated storm events, the purpose of which is to determine the overall effectiveness of the erosion and sedimentation control measures and for implementation of additional control measures as needed. Upon completion of all work on Property and prior to As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations, and the Board shall be notified in writing of the final disposition of the materials.

20. The Applicant shall ensure implementation of the following requirements concerning landscaping/seeding in connection with Authorized Activity:

- a. Landscaping/seeding shall be performed as soon as possible to provide permanent stabilization of disturbed surfaces;
- b. If the season or adverse weather conditions do not allow the establishment of vegetation, temporarily mulching with straw, wood chips weighted with snow fence or branches or other methods shall be provided;
- c. A minimum of 4 inches of topsoil shall be placed and its surface smoothed to the specified grades;
- d. The use of herbicides is prohibited;
- e. Hydroseeding is required for steep slopes;
- f. Application rates on slopes greater than 3:1 shall have a minimum seeding rate of 5 lbs/1000 square feet;
- g. A latex or fiber trackifier shall be used on these slopes at a minimum rate of 50 lbs. of trackifier per 500 gallons of water used.

21. There shall be no exterior construction activity, including running, idling or fueling of vehicles, on the Project Site before 7:00 a.m., or after 6:00 p.m., Monday through Friday and before 8:00 a.m. or after 6:00 p.m. on Saturday. There shall be no exterior construction activity on the Project site on Sundays or the following days unless special approval for such work has been issued by the Hamilton Police Department: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas. The hours and days of operation shall be enforceable by the Hamilton Police Department.

22. Within ninety (90) days of the issuance of the certificate of occupancy, the Applicant shall submit to the Board two sets of As-Built Plans for all infrastructure improvements and, if applicable, evidence of compliance with this Comprehensive Permit and any other permits required for the construction of the improvements contemplated by this

Comprehensive Permit. The As-Built Plans shall be provided both in paper form and as AutoCAD plans, in a version approved by the Building Commissioner so as to be compatible with the Building Commissioner's software and hardware. The site engineer of record shall provide a written description of any material deviations from the Building Permit plans and shall certify that work has been completed in substantial conformance with the Approved Plans.

23. All catch basins and detention basins shall be cleaned at the end of construction. Thereafter, the Applicant shall be responsible for maintaining the site's storm-water management system in accordance with generally accepted best management practices, and in accordance with a long-term Stormwater Operation and Maintenance Plan which shall be provided in form and substance as set forth in the Stormwater Management Report of Hancock Associates dated 2/18/22, as amended through 10/21/22, pursuant to Standard 9 of the MassDEP Stormwater Management Standards.

24. The Applicant shall also execute and provide the Building Inspector with the Illicit Discharge Compliance Statement set forth in the Hancock Stormwater Management Report, as amended through 10/21/22, pursuant to Standard 10 of the MassDEP Stormwater Management Standards.

25. The Applicant shall be permanently responsible for the following aspects of the Project:

- a. all plowing, sanding, and snow removal. Snow shall be piled in designated locations as shown on the Approved Plans or alternate locations acceptable to the Fire Chief. If snow impairs roadways such that the travel area is less than eighteen feet wide, and all designated snow removal locations have been exhausted, the Applicant, at the direction of the Fire Chief, shall cause snow to be transported from the Project to an off-site location for legal disposal;
- b. maintaining the site and establishing a regular schedule for site maintenance;
- c. repairing and maintaining all on-site roadways, including drainage structures and utilities therein, and the infrastructure within the Project;
- d. maintaining all easements shown on the Plans; and
- e. site lighting.

26. Prior to commencing Authorized Activity, the Applicant's Final Plans shall provide that the construction of the Project shall be performed in accordance with all applicable laws and regulations regarding noise, vibration, dust, sedimentation control and blocking of Town roads. The Applicant shall comply with all such laws and regulations in the construction of the Project. It shall install aprons at entry points and provide for dust control in the form of

sweeping and spraying of water whenever necessary.

27. No stumps or construction debris shall be buried or disposed of at the Property.

28. The Applicant shall use all reasonable means to minimize inconvenience to residents in the general area during construction.

29. ~~No blasting is not permitted unless, upon the Applicant's engineer determining during site development that limited blasting is required to construct the Project, (a) the Applicant provides the Town of Hamilton Building Department and abutters to the Property advance notice of at least thirty (30) days before such blasting; and (b) such blasting comply with all applicable local and state laws and regulations governing noise, vibration, and worker protection.~~

30. This Comprehensive Permit and any permit granted hereunder is granted to the Applicant and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the Board, as required by 760 CMR 56.05(12)(b).

31. Any changes to the Project after issuance of the Comprehensive Permit shall be reviewed and approved by the Board in accordance with 760 CMR 56.05(11).

32. Building construction may begin simultaneously with the commencement of construction of the infrastructure, but no occupancy permit shall issue until compliance with the State Building Code has been achieved.

33. 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 both it is duly recorded and construction on the Project has commenced within such period.

C. CONDITIONS PRIOR TO ISSUANCE OF BUILDING PERMIT

1. Prior to issuance of any Building Permit, the Applicant shall:

a. Record this Comprehensive Permit decision with the Essex Registry of Deeds and provide proof of recording to the Building Inspector.

b. Submit to the Board and Building Inspector evidence of Final Approval by the Subsidizing Agency.

c. ~~Submit to the Board and Building Inspector a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project. No construction may begin under the building permit until the eExecution and recording of the Regulatory Agreement and subsidized funding commitment shall be complete before issuance of a building permit.~~

- d. Submit all Final Plans for review and approval, including the stormwater management plan.
 - e. Obtain all necessary electrical, plumbing or other permits required to begin construction of the Project.
 - f. Provide to the Building Commissioner a final Stormwater Pollution and Prevention Plan (SWPPP) to address specific sedimentation, erosion and dust control, which illustrates, at a minimum, locations of measures such as hay socks, silt fence, sedimentation basins, and all other erosion controls on the plans, and provides detailed construction sequencing and methods to protect the infiltration capacity of each detention system.
 - g. Provide procedures that outline the specific operation and maintenance measures for all stormwater/drainage facilities, including any temporary facilities that shall be employed to minimize or eliminate the threat of transmission of mosquito-borne diseases to the residents of the Project and nearby residents.
2. Prior to the issuance of any building permit, the Approved Plans, finalized 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 Board and the Building Inspector, and shall include the following:
- a. Grading Drainage and Utilities, including on-site utilities and connections to utilities in adjacent public ways, which shall conform to all requirements of municipal departments or private utility companies having jurisdiction and to all applicable codes;
 - b. Stormwater Pollution: and Prevention Plan (SWPPP) notes that address mitigation of sedimentation and erosion, including details relating to any temporary drainage basins;
 - c. A Final Landscape Plan (which shall include among other features consistent with the Approved Plans, details concerning tree plantings to enhance the buffer zone and privacy between the project and the existing neighboring residential development), and Final Lighting Plan.

D. CONDITIONS PRIOR TO ISSUANCE OF CERTIFICATE OF OCCUPANCY

1. With respect to the work to be done by Applicant on private ways within the Property, no certificates of occupancy shall be issued by the Town until the Applicant has:

(i) substantially completed all site drainage and utility work appurtenant to any parts of the Project for which an occupancy permit is to be issued; (ii) installed a binder course of pavement on driveways and parking areas within those parts of the Property; and (iii) has provided a performance guarantee consistent with Condition D.4.

2. Landscaping adjacent to those buildings for which the Applicant seeks certificates of occupancy shall be substantially installed ~~prior~~ per the Approved and Final Plans prior to the issuance of such certificates. To the extent such adjacent ~~that~~ landscaping ~~for the Project~~ is not substantially completed prior to the issuance of the certificate of occupancy, the Applicant or the General Contractor for the Project shall provide the Board a satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, in an amount to be determined by the Board based upon the Applicant's reasonable estimate of the costs to complete such landscaping work.

3. The work to be secured shall include any landscape screening and fencing along the Limit of Work boundary.

4. No Certificate of Occupancy shall be issued until the infrastructure, common facilities, and common improvements specified in this decision and set forth on the Approved and Final Plans are constructed and installed so as to adequately serve said phase, or adequate security has been provided, reasonably acceptable to the Building Inspector and approved as to form by the Board's legal counsel, to ensure the completion of such improvements. No such performance guarantee shall be requested until all drainage facilities and the base course of the pavement have been installed. The choice of performance guarantee shall be governed by G.L. c. 41, § 81U (excluding the statutory covenant which shall not apply in this matter) and shall be approved as to form by the Board's legal counsel. The Applicant shall have all statutory choices of performance guarantees available under G.L. c. 41, § 81U (as limited above) at all stages of construction up until request for the final certificate of occupancy. The Applicant acknowledges that a letter of credit is not a suitable form of surety under G.L. c. 41, § 81U, ¶ 7; provided however, a General Contractor Bond or Applicant's covenant pursuant to G.L. c. 41 § 81U, shall be satisfactory.

5. Prior to issuance of the first certificate of occupancy, the Applicant shall obtain approval from the U.S. Postmaster of any location to be used for mail boxes and parcel delivery.

6. Prior to issuance of a certificate of occupancy, the Applicant shall:

a. Submit engineer's interim certification of compliance with utilities plan and

profiles (as applicable) to the Building Inspector.

b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the as-built Project has been constructed in compliance with the Final Plans in all material respects, or noting where there are differences, along with an as-built plan of the stormwater management system by the Applicant's engineer showing compliance with the design intent, which, following approval, shall be appended to the "Long-Term Stormwater Operation and Maintenance Plan" for ease of reference by the property owner.

c. Obtain acceptance from the Hamilton Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.

7. Prior to issuance of the certificate of occupancy, the Applicant shall:

a. Submit to the Building Department, in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in a form acceptable to the Building Department. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plan Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.

b. Submit to the Building Inspector as-built plans for all buildings in the Project, verification that the stormwater management system has been inspected and cleaned, and Certificate of Compliance to the Board with all terms and conditions of this Permit.

E. SPECIAL CONDITIONS

1. Final Plans shall include the following:

- a. All internal roadways within the site shall be verified to accommodate turning and maneuvering requirements of the largest anticipated fire/emergency vehicle, as defined by the Hamilton Fire Dept.;
- b. Vehicles exiting the project site to Asbury Street shall be placed under STOP-sign control, with a marked STOP-line;
- c. A sight line plan from the Applicant's traffic engineer, including required tree removal, to depict clear zones necessary to meet AASHTO's minimum and desirable Stopping Site Distance and Intersection Site Distance Standards.

- d. An additional twenty (20) shade-tolerant evergreen trees, a minimum of eight (8) feet in height, based on availability, to be added to the voids along the southerly side of the Project site.
2. The dumpster for the Project shall be located at the opposite (northwest) corner of Canter Brook Lane. ~~D~~Except for special circumstances such as unit move-outs or move-ins, dumpster pick up shall be on a once per week basis on a Monday to Friday, not before 7 a.m. and not after 6 p.m.
3. Contingent on the full sidewalk project budget being available in advance, and on the Town and Canterbrook Village also agreeing to fund their respective portions,
~~t~~The Applicant shall pay a fair share contribution of \$172,058.00 of the cost of construction of a sidewalk along Asbury Street in front of the Project site to Highland Avenue.

EXHIBIT A

Table of Requested Waivers vs. Existing Zoning Requirements

Requested Waivers	Existing Zoning Requirements
Multi-Family Use	The parcel is located in zoning district R-1B, single residence district.
Reduced Lot Area per Dwelling Unit (Sq. Ft.)	Currently requires 40,000 square feet per dwelling unit.
<u>All</u> other requirements are met including setback and height requirements.	

