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April 16, 2024

City of Melrose
Board of Appeals
Melrose City Hall
562 Main Street
Melrose, MA 02176

Re: M.G.L. c. 40B Comprehensive Permit Application
Applicant: Cedar Park Development LLC
Project: 164 Essex Street Residences

Dear Board Members:

On behalf of my client, Cedar Park Development, LLC (“Applicant”), this letter and the exhibits referenced below shall comprise an application pursuant to Massachusetts General Laws Chapter 40B, Sections 20-23 and the implementing regulations of the Commonwealth of Massachusetts Executive Office of Housing and Livable Communities (“EOHLC”) (760 CMR 56.00) (“Act”), and the Comprehensive Permit Rules of the City of Melrose Board of Appeals (“Board”), for a Comprehensive Permit (“Permit”) to authorize the construction of a 76-unit rental apartment development (“Project”) on property located at 164 Essex Street, Melrose, MA (“Property”).

I. The Applicant

The Applicant is a Massachusetts limited liability company with a business address of 142 Haggett’s Pond Road, Andover, MA 01810. Proof of the Applicant’s organization is enclosed as Exhibit 1. As embodied in its articles or organization, the Applicant has stipulated to a limitation on its return on total investment in the Project pursuant to the requirements of the Act and will comply with the requirements of the Subsidizing Agency relative to a reasonable return for building and operating the Project. Accordingly, the

Applicant qualifies as a limited dividend organization within the meaning of the Act. See 760 CMR 56.04(1)(a); 760 CMR 56.02.

As evidence of the Applicant's control of the Property within the meaning of the Act, 760 CMR 56.04(1)(c), a copy of the current deed to the Property and purchase and sale agreement for the Property are enclosed as Exhibit 2. This agreement conveys the right to purchase the Property to Szecon Development, Inc. (Owner), a related entity to the Applicant under common management. Also enclosed in Exhibit 2 is an assignment of development rights from the Owner to the Applicant. Prior to Project construction, the Owner will close on the Property and assign the Applicant to take title thereto.

II. The Development Team

The Applicant's development team for the Project is as follows:

DEVELOPER

Cedar Park Development, LLC
Laura Szekely & Sean Szekely, Managers

GEOTECHNICAL/ENVIRONMENTAL

Michael P. Smith, P.E.
GZA GeoEnvironmental, Inc.

LEGAL

Jesse D. Schomer, Esq.
Regnante Sterio LLP

LANDSCAPE ARCHITECTURE

James K. Emmanuel, RLA, LEED AP
james k. emmanuel associates

ARCHITECTURE

David H. O'Sullivan, AIA
Donnie Garrity, LEED AP
O'Sullivan Architects, Inc.

TRAFFIC/SAFETY

Daniel J. Mills, P.E., PTOE
MDM Transportation Consultants, Inc.

CIVIL ENGINEERING

Richard L. Williams, P.E.
Williams & Sparages LLC

Contact information and biographical information for the Development Team can be found in Exhibit 3.

III. Project Eligibility

As required by Chapter 40B regulations, 760 CMR 56.04(1), prior to filing this application with the Board, the Applicant sought and obtained a finding of project/site eligibility by the Massachusetts Housing Finance Agency ("MassHousing"). A copy of this

application was filed with the City of Melrose and is available on the Board's [website](#). A copy of this application is also available in Exhibit 4.¹

In accordance with 760 CMR 56.04(3), the City was afforded an opportunity to comment on the Project. By [letter dated February 5, 2024](#), City of Melrose Mayor Jennifer Grigoraitis issued a letter to MassHousing commenting on the Project and expressing "support for the issuance of a Project Eligibility Letter". The following paragraph summarizes the City's supportive position regarding this Project:

This proposal seeks to redevelop an underutilized parking lot into a transit-oriented multifamily development in line with the City and the State's housing production goals. The property was identified as an opportunity site in the City's Housing Production Plan due to its proximity to public transportation and commercial amenities and is ideal for residential development. Melrose lacks available buildable land, so this type of infill development is highly encouraged. We are eager to see this property repurposed, and we strongly believe that this project will positively impact the community while making an important contribution to the local and regional housing stock.

Mayor Grigoraitis's letter continues by favorably assessing the Project's design and materials, residential amenities, landscaping, and vehicle and bicycle parking arrangements. The letter concludes by acknowledging the importance of the affordable housing units that the Project would create as well as the Project's positive fiscal impact.

On March 19, 2024, MassHousing issued a [project eligibility/site approval letter](#) for the Project ("PEL"), a copy of which (together with Mayor Grigoraitis's letter) is submitted in compliance with 760 CMR 56.05(2)(g). Exhibit 4. Obtaining the PEL satisfies the jurisdictional requirements of 760 CMR 56.04(1).

Funding for the Project will be provided through a Massachusetts bank that is a member of the Federal Home Loan Bank of Boston ("FHLBB") and a participant in the New England Fund ("NEF"), which is a qualifying subsidy program designed to facilitate the development of affordable housing. As required by NEF eligibility guidelines, not less than 25% of the Project's permanent financing will be through this NEF loan, for a period of not less than five years – thus establishing the required housing subsidy. Included in the PEL application was a letter of interest from The Savings Bank of Wakefield (a

¹ The PEL application also contains the Project's Sustainable Development Principles Evaluation Self-Assessment Form and Project pro forma, both required by local filing rules.

qualified NEF lender) expressing interest in financing the construction and permanent financing of the Project.

The PEL issues a number of required findings, which include the following:

- “the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7)”;
- “the site of the proposed Project is generally appropriate for residential development”;
- “the conceptual project design is generally appropriate for the site on which it is located”;
- “the Project appears financially feasible and consistent with the Department’s Guidelines for Cost Examination and Limitations on Profits and Distributions”;
- “the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program”; and,
- “the Applicant controls the site”.

As a proviso to these findings, MassHousing recommends that the following issue should be addressed during the public hearing before the Board. MassHousing’s comment, and the Applicant’s response, are as follows:

Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use related to building construction, wetland protection, stormwater management, wastewater collection and treatment, and hazardous waste safety. The Applicant should expect that the Municipality will require evidence of such compliance prior to the issuance of a building permit for the Project.

The Applicant understands that compliance with all applicable state and federal laws, regulations, and standards is required of the Project. The application materials preliminarily demonstrate such compliance. Final Project plans consistent with the preliminary plans filed herewith and demonstrating full compliance with state and federal

law will be filed with the City prior to issuance of building permits. The Applicant looks forward to a discussion of these issues with the Board as the Project advances.

IV. The Existing Condition of the Property and Surrounding Area

The following summary of the existing condition of the Property and the surrounding site area is submitted in compliance with 760 CMR 56.05(2)(b).² Enclosed as Exhibit 5 are aerial maps showing the location of the Property and surrounding area, including its zoning designation.

The Property is a 32,148sf parcel with approximately 364 feet of frontage on Essex Street in the Cedar Park neighborhood of Melrose. The Property is located in the Extensive Business Zoning District (BB-1) and the Rail Corridor Overlay District (RCOD), which allows multifamily residential development by right. The Property directly abuts existing multifamily developments to the north (the Pondfield condominiums, containing two 4-story buildings) and south (The Residence at Melrose Station, a 5-story senior and assisted living facility). Across Essex Street from the Property is the 4-story Cedar Crossing Condominiums as well as a handful of single- and two-family homes ranging from 2-3 stories. Directly behind the Property is the MBTA Commuter Rail Haverhill Line, with the Melrose/Cedar Park station mere feet away from the site.

Other uses in the neighborhood include commercial uses on Emerson Street, which extend down Essex Street nearly to the property, as well as the Essex Street shops, located about two blocks away. Given this ideal location, the Property is located within walking distance of the numerous commercial and community amenities and services in downtown Melrose and along Main Street, including supermarkets, retail shops, restaurants, various commercial businesses and services, parks and places of recreation, schools, places of worship, public offices, the Melrose public library, and Melrose Wakefield Hospital.

Most importantly, as noted, the Project site is located within close walking distance to the Melrose/Cedar Park Commuter Rail station. Other rapid transit options include the MBTA 131 and 137 bus lines with service on Main Street between downtown Reading and Wakefield to the north and Malden Center (with MBTA Orange Line service) to the south.

² 760 CMR 56.05(2)(b) requires “a report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood. This submission may be combined with that required in 760 CMR 56.05(2)(a).”

The Property is currently developed with an underutilized private parking lot, which covers almost the entire land area of the site with impervious surfaces. The property has limited stormwater management controls, which appear to be limited to drainage structures tied to the City's storm sewer system, which is out of compliance with current state stormwater management regulations. Photos of the Property and surrounding properties are enclosed in Exhibit 6 and the existing condition of the Property is shown on an existing condition plan included with a set of preliminary civil engineering plans enclosed herewith as Exhibit 7 ("Civil Plans"), prepared by Williams & Sparages. The Civil Plans fully comply with and fulfill all requirements of 760 CMR 56.05(2)(a) with respect to the submission of preliminary site development plans and engineering plans.³ The aerial plans (Exhibit 5), site context photographs (Exhibit 6), existing condition plan (Exhibit 7), and the existing condition narrative contained herein fulfill the requirement of 760 CMR 56.05(2)(b) for an existing conditions summary for the Project.

Public water, sanitary sewer, and storm sewer are available in Essex Street. Pole mounted utilities existing along Essex Street include electric, cable television, telephone, and other communications; these utilities will be connected to the Project site. Natural gas is also available in Essex Street. See Exhibit 7. Site stormwater will be managed in accordance with the Massachusetts Stormwater Management Standards (MSWMS).

According to Massachusetts GIS records, the site does not contain and is not located within 100 feet of any wetlands resources. Similarly, the Property is not located in a Federal Emergency Management Agency (FEMA) Flood Hazard Zone, does not contain (and is not within 100 feet of) any vernal pools, and is not within any protected Priority Habitat or Estimated Habitat for species protected by the Natural Heritage & Endangered Species Program (NHESP). Additionally, the Property does not contain any designated historical resources mapped by the Massachusetts Historical Commission's MACRIS database. See Exhibit 8.

V. Description of the Project

A. *Project Overview*

The proposed site conditions of the Project are shown on the proposed condition sheets of the Civil Plans. See Exhibit 7. Proposed design features, building floorplans,

³ The engineering and site plans required by 760 CMR 56.05(2)(a) are as follows: "preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. . . . All Projects of five or more units must have site development plans prepared by a registered architect or engineer." Per Melrose local filing rules, an as-of right civil plan has also been submitted with the Civil Plans. See Exhibit 7.

building elevations, building cross-section, facade materials, renderings, and shadow study for the Project are shown on the enclosed architecture plans prepared by O’Sullivan Architects (“Architecture Plans”), which can be found at Exhibit 9. The Architecture Plans fulfil (and exceed) the requirement of 760 CMR 56.05(2)(c) to submit preliminary, scaled architecture plans.⁴ A tabular analysis of Project site and proposed buildings is enclosed under Exhibit 10 in compliance with 760 CMR 56.05(2)(d).⁵ Enclosed as Exhibit 11 is a comprehensive landscaping plan with planting schedule.

The Project seeks to optimize the use of a currently underutilized parcel that is optimal for redevelopment with transit-oriented housing based on its central location in Melrose and proximity to public transport options. The Project building will contain 5 total stories (61’-4”), including 4 levels of residential units over a ground level comprised of the main building entry, a residential amenity space, mail/package room, bicycle storage, a pet care room, covered parking, trash/recycling room, and other required mechanical and utility support spaces.

The proposed building has a footprint of 23,309gsf and total gross square footage of 109, 597sf (FAR: 2.84). The building occupies 72.5% of the site, with the remainder of the site consisting of 10.1% other impervious surfaces and 17.4% open space/pervious areas. The building contains 76 total residential units, including 5 studio units, 39 1-bedroom units, 23 2-bedroom units, and 9 3-bedroom units.⁶ . These units will include 19 affordable units (25%), which will be income restricted for households earning at or below 80% of the Area Median Income. Per EOHLIC policy, all 76 units will be eligible to be counted on the City’s Subsidized Housing Inventory. All units are spacious and sized to be appropriate for the market with modern open floorplan layouts. The units will contain upscale, high-quality finishes, with comfortably sized bedrooms, bathrooms, and storage areas.

⁴ 760 CMR 56.05(2)(c) requires “preliminary, scaled, architectural drawings. For each building the drawings shall be prepared by a registered architect, and shall include typical floor plans, typical elevations, and sections, and shall identify construction type and exterior finishes”. Under the Act, plans filed with a Comprehensive Permit application may be preliminary plans, and the Applicant reserves the right to revise said plans prior to final approval of the Project.

⁵ 760 CMR 56.05(2)(d) requires “a tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas”.

⁶ All non-age-restricted Comprehensive Permit projects must have a unit mix with at least 10% of the units as three-bedroom units pursuant to an Interagency Agreement dated January 17, 2014 between EOHLIC, MassHousing, the Massachusetts Housing Partnership Fund Board (“MHP”), the Massachusetts Development Finance Agency (“MassDevelopment”), and the Community Economic Development Assistance Corporation (“CEDAC”).

The proposed building is an elevator-fed 4-over-1 low rise building in a double-loaded corridor layout. As required by law, 5% of the units (4) will be fully accessible “Group 2” units, and the remaining 72 units will all be “Group 1” adaptable units due to the fact that the building is served by two elevators, which provide accessible routes to all of the residential units and common area amenity spaces. All units will have individual heat and hot water systems and in-unit laundry. Half of the units will have private outdoor balcony space. The fifth floor of the building is set back on several sides, which creates private outdoor roof deck space for those units on the penthouse level. Additionally, the fifth floor of the building also contains a common amenity space and common roof deck available to all residents of the building.

B. *Project Architecture/Design*

The exterior of the building is designed to fit within the existing fabric of the streetscape along Essex St., using architectural elements and building materials that are consistent with and complementary to the context of the neighborhood and to the typical existing larger scale residential buildings nearby. These materials include brick masonry, metal panel, and fiber cement lap and panel siding. The color palate, window styling, and wall detailing will be complimentary with the contemporary residential buildings nearby.

In addition to the composition of the building materials, the facades use bay and balcony elements to undulate and add depth to help break down the scale of the building. On the ground level, active uses are positioned within the building along the sidewalk, while the covered parking is situated in the back, further connecting the project to the pedestrian scale along Essex Street. Additional mitigation of the building massing is helped by the set back 5th floor, the rotated and angled exterior walls (a product of the unique geometry of the site), and proposed landscaping, which include large Heritage Birch, Red Maple, Sweetgum, and ornamental Dogwood trees, as well as extensive shrubbery, grasses, and perennial plantings.

Overall, the intent of the Project’s design is to incorporate higher density residential development in this location with the existing fabric of the neighborhood through a mix of architectural elements, landscaping, and complementary building style. To enhance the visual appeal and reduce the scale of the Project buildings, the massing employs various elements and colors, creating smaller components within the overall structure, and the chosen material palette seeks to complement the surrounding context. This will help to break up the appearance of massing and create visual interest.

The use of design elements that are complementary to surrounding uses with high quality modern building materials and informed detailing will create a harmonious, appropriately scaled design. Moreover, the size, scale, and height of the buildings have

been designed to provide a congruous level of building massing. In addition to the above-discussed architectural elements designed to mitigate building massing, the Project will include landscaping to integrate the site into the built environment and buffer the Project building. On-site landscaping will be irrigated and maintained as part of the Project.

The design approach described above is in keeping with the recommendations of the *Handbook: Approach to Chapter 40B Design Reviews*, promulgated by EOHLC, MassHousing, MassDevelopment, and MHP, which specifically contemplates the development of multifamily apartment developments at a greater level of density than may be allowed by the underlying zoning where the building typology has been designed to relate to the existing neighborhood and to reduce the visual impact of massing, height, and scale – as is accomplished here.

The project also aims to incorporate several sustainable features into its design including solar energy generation, EV charging stations, bicycle storage, and stormwater management. The Project will meet and/or exceed applicable energy code requirements in the Commonwealth of Massachusetts – including the Stretch Energy Code that recently went into effect in the City of Melrose in late 2023. Although natural gas service is available in Essex Street, the building does not propose to connect to it; instead, the building is proposed to utilize all-electric power for heating and hot water.

Each dwelling unit will be equipped with Energy Star qualified refrigerators, dishwashers, and clothes washers; Watersense plumbing fixtures; LED light fixtures; Energy Star qualified high-efficiency, electric domestic hot water heaters; heating and cooling system with digital programmable thermostats; Energy Star qualified windows; and individually metered utilities. The roof will be light-colored to reduce heat-island effect and to reduce air conditioning demand. Zero VOC interior paint, low VOC sealant, and sustainable interior finishes will be installed throughout the property for better indoor air quality. Electric vehicle charging stations will be provided. Bicycle storage and amenities will be provided. If feasible, low-impact development (LID) stormwater management techniques will be considered.

In sum, the Project will provide new, attractive affordable and market-rate rental options in a convenient location with access to the local amenities and transit options discussed above. The Project will provide a desirable place to live in a sought-after residential community with comfortable apartments and attractive amenities designed to serve the interests of residents in today's market. Anticipated markets for this type of housing include young professionals, small families, and local seniors interested in downsizing from a larger single-family residence while remaining in their home community.

C. *Project Civil Engineering and Site Design*

Given the site's optimal access to public transport, the Project includes limited vehicle parking: 54 total parking spaces, all of which is located under the building and will be screened from view. Accessible parking will be provided in accordance with state and federal requirements. See 521 CMR 23.2.1. Currently, there are 7 street parking spaces in front of the Property. The Project proposes to stripe one of these spaces as a no parking zone to improve safety conditions, but otherwise to maintain the other 6 existing public spaces with appropriate restrictions to provide short-term parking for visitors, guests, rideshare vehicles, and small delivery vehicles.

The Project also proposes to request permission from the City to develop a dedicated public loading zone near the intersection of Vine Street and Essex Street, which would provide service not only for the Project, but also for the nearby multifamily and other residences. In addition, the building garage entry has been designed with sufficient height to allow small trucks and vans to enter the garage to make deliveries.

Loading arrangements will be coordinated by means of an operations and management plan for the Project (draft included as Exhibit 12), which also comprehensively addresses such site operations issues as trash management and collection, snow removal and storage, and maintenance of landscaping. Garbage and recycling collection will be arranged privately with the frequency of collection determined based on the needs of the Project. The site driveway has been designed to allow for collection vehicles to pull onto the site for garbage and recycling collection, with garage ingress/egress to be managed during collection times by building management.

Due to limited space on site and the Property's unusual geometry, on-site access by emergency vehicles is not feasible. Instead, access to the building by emergency vehicles (including ladder trucks) will be primarily from Essex Street, with additional accessible available via parking areas on the adjacent sites to the north and south of the Property. As required by law, fire suppression systems will be provided in the Project buildings and all fire safety measures will be coordinated with the Melrose Fire Department.

The Project includes a comprehensive stormwater management system to collect and manage runoff from the buildings and parking areas, which will be supported by a series of stormwater best management practices (BMPs) to ensure that runoff is cleaned before it is released. See Exhibit 13. This stormwater management system complies with all 10 of Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Standards (MSWMS), as outlined in MassDEP's Stormwater Handbook, to the extent they are applicable. Compliance with these standards creates a legal

presumption that the Project will adequately protect public and private water supply, groundwater supplies, provide for appropriate flood control and storm damage prevention, prevent pollution, protect fisheries, and protect wildlife habitat.

The Civil Plans show proposed utilities for the Project, in compliance with 760 CMR 56.05(2)(f).⁷ Public water, sewer, and storm sewer systems are available in Essex Street and will be utilized by the Project. Similarly, the Project will connect to above-ground electric, cable television, telephone, and other communication lines running along the westerly side of Essex Street; these services will be brought into the Property via underground transmission lines. As noted, natural gas service is available in Essex Street, but the Project does not propose to connect to it. The Project will be designed in accordance with the reasonable recommendations of the Melrose Engineering Department and Department of Public Works so as not to have any material adverse impact on these systems.

D. *Project Impacts and Impact Mitigation*

In order to ensure that the Project does not present any public safety issues relating to vehicular access, the Applicant has commissioned MDM Transportation Consultants to prepare a comprehensive traffic and safety analysis of the site and surrounding area. A copy of MDM's traffic study is attached as Exhibit 14. It included an assessment of existing traffic and safety conditions, including review of local and state crash data, and collection of speed data and traffic counts. This data was used to project expected traffic and safety conditions 7 years into the future based on comparative scenarios in which the Project is built (2031 Build Condition) or not built (2031 No Build Condition). Information about prospective development in the vicinity of the Project site was also taken into consideration in the study's assessment of projected 2031 traffic conditions.

Based on its assessment of the proposed use (multifamily residential, 76 units), MDM's traffic study concluded that Project would result in a "nominal" increase in local traffic, which would have an "incremental" effect on existing traffic that would not "materially degrade operating conditions at the study intersections." Moreover, "[i]mplementation of access/egress improvements, pedestrian and bicycle accommodations and a [traffic demand management] program . . . will establish a framework of minimizing Site traffic impacts by encouraging non-motorized travel modes and pedestrian accommodation that is compatible with other projects in the area."

⁷ 760 CMR 56.05(2)(f) requires "a preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants".

With respect to transportation-related safety issues, the study found no significant safety issues presented by the Project. Speed data collected by MDM found mean travel speeds of 25/26MPH in either direction on Essex Street, with 85th percentile speeds of 29MPH – indicating that most traffic travels below, at, or only very slightly higher than the posted speed limit of 25MPH. Assessment of sight distances from the Project driveway was not deemed necessary because Essex Street is straight and level with no obstructions and ample approach distances in both directions.

Crash statistics for MassDOT District 4 (which includes the City of Melrose) indicated average crash rates. More locally, MDM’s study assessed crash data for the Intersection of Essex Street and Myrtle Street, which has a crash rate below district average and all reported crashes included property damage only. While the intersection of West Emerson Street and Essex Street had an elevated crash rate, most did not result in any injuries, and none resulted in any fatalities. Moreover, MDM notes that intersection upgrades have recently been implemented here to improve safety conditions.

With respect to traffic generation, based on area travel mode statistics for the area Census tract, the MDM traffic study projected that less than half of Project travel (47%) would be accommodated via automobile. However, this likely represents a conservative estimate due to the fact that local Census data includes the numerous single-family homes in the area, which promote automobile dependency due to the fact that most include no-cost, off-street vehicle parking accommodations. It is anticipated that the Project will significantly outperform this metric in terms of its use of non-automobile forms of transport given its design and marketing as a transit-oriented development.

Recommendations of the MDM report included on-street parking restrictions by the City, pedestrian, and bicycle accommodations (both included in the Project), and implementation of a transportation demand management plan for residents as a condition of Project approval, with measures to promote use of public transport, EV charging stations, pedestrian and bicycle accommodations, and unbundled parking to discourage automobile dependency.

In sum, the Project will have no adverse impact on public safety, nor any significant traffic impacts to the surrounding roadway system.

Following completion of site work and the removal of the existing parking lot, the Applicant intends to construct the Project in a single phase as soon as possible following the completion of permitting. In addition to those already discussed, anticipated impacts of the Project associated with the construction process include erosion and sedimentation, noise, dust, and debris control, as well as construction project traffic and parking. Although these impacts will be temporary in nature, mitigation controls will be in

place, and best management practices will at all times be observed. Such procedures include the following:

1. Construction sequencing, best management practices for erosion control, equipment and vehicle management, materials storage and use, waste disposal, and spill prevention and response.
2. Routine inspections of Property conditions, as needed, to control dust during construction and to provide watering, as and to the extent required.

To ensure that these safeguards are observed, a draft Construction Management Plan (CMP) is included for review by the Board. See Exhibit 15. It is anticipated that a final CMP will be provided to the City prior to the start of construction after selection of the Project general construction contractor.

As noted above, the site is developed with a parking lot and therefore it contains no historic or archeological features, nor any resource areas subject to environmental protection laws. See Exhibit 8. Given the site's automotive use and proximity to railway lines, a Phase I site assessment of the Property has been conducted by GZA GeoEnvironmental, which indicated no major contamination issues, although some soil remediation may be required based on prior uses of the site that included storage of coal. See Exhibit 16.

In sum, the Project will have not result in any significant adverse impacts, and any Project impacts that do occur can and will be mitigated as described above.

VI. Requested Waivers of Local Bylaws

In accordance with 760 CMR 56.05(2)(h), the Applicant hereby notifies the Board that waivers are sought from any/all applicable requirements of the Melrose Zoning Ordinance, the Board's Comprehensive Permit Rules, and all other local bylaws, ordinances, rules, and regulations needed for the development and construction of the Project, including, without limitation, each and every of the provisions/bylaws outlined in the chart contained in Tab 18. Pursuant to the Act and 760 CMR 56.05(7), all provisions of these local regulations shall be waived to the extent "required to permit the construction and operation of the Project."⁸ In accordance with 760 CMR 56.05(7), the within waiver list may be revised and/or updated during the course of the Public Hearing process.

⁸ 760 CMR 56.05(7) specifically provides that "[t]he Applicant may request Waivers, as listed in its application or as may subsequently arise during the hearing, and the Board shall grant such Waivers as are Consistent with Local Needs and are required to permit the construction and operation of the Project.

VII. Chapter 40B and Local Housing Needs

Massachusetts General Laws Chapter 40B, §§ 20-23 provides in relevant part that all communities must have a minimum of 10% of their housing stock dedicated to low-to-moderate-income housing within the meaning of the Act and the regulations promulgated pursuant thereto. See M.G.L. c. 40B, § 20 and 760 CMR 56.03(3)(a). Based on the most recent Subsidized Housing Inventory (“SHI”), as released by EOHLC on June 29, 2023, the stock of housing currently utilized in Melrose for low to moderate income purposes totals 967 units, which represents 7.69% of the total year-round housing units in Melrose. See Exhibit 18.

Under these circumstances, there exists a strong legal presumption that the regional housing need in the City of Melrose outweighs all local concerns, including density, massing, design, neighborhood character, and the like. In such cases, the municipality generally must approve the Comprehensive Permit and grant the waivers requested by the Applicant. The only permissible conditions that the Board may impose are those that promote local interests relating to health, safety, environmental concerns, or design concerns, and even in these limited circumstances the Board must prove that such concerns outweigh the regional housing need.

The Applicant proposes and agrees that 25% of the total number of units in the Project (19 units) will be dedicated as affordable units. However, pursuant to EOHLC regulations, because the units are rental apartments, all 76 units in the Project will be eligible for inclusion in the City’s SHI following the approval of the Project. As required by law, these affordable units will be subject to a regulatory agreement, which will ensure that these units remain affordable for as long as the Project is not in compliance with local zoning requirements.

In accordance with EOHLC guidelines, the affordable units will be dispersed proportionally throughout the Project and will be indistinguishable from the outside from market-rate units. In accordance with a marketing plan that must be approved by EOHLC, the affordable units will be marketed and made available to prospective qualified applicants on a lottery basis.⁹ To the extent allowed by EOHLC and the subsidizing agency (MassHousing) pursuant to fair housing laws, the Applicant is willing to agree that

Zoning waivers are required solely from the ‘as-of-right’ requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the district.”

⁹ Qualified applicants are defined as families or individuals with incomes at not more than 80% of the annual median income for the region, as determined by HUD.

local Melrose residents will be given a local preference in the lottery for the affordable units during the initial rent-up of the Project.

VIII. Other Local Permits and Approvals

As its name implies, the Board's issuance of a Comprehensive Permit will constitute a "master permit which shall subsume all local permits and approvals normally issued by Local Boards." 760 CMR 56.05(10)(b).¹⁰ The local permits and approvals that will be subsumed within the Board's Comprehensive Permit – including those for which the Board is automatically substituted as the reviewing and permit-granting authority in lieu of other Local Boards – shall include, without limitation, the following:

- Melrose Zoning Ordinance, § 16.1 (site plan review)
- Melrose Zoning Ordinance, § 27 (sign permit)
- Melrose Poles & Wires Code (approval of utility pole)
- Melrose Sewage Disposal Code (approval of sewer connection)
- Melrose Solid Waste Code (approval of dumpster location)
- Melrose Streets & Sidewalks Code (approval of work in Essex St.)
- Melrose Water & Sewers Code (approval of water & sewer connections and stormwater management system)

Following the issuance of a Comprehensive Permit for the Project, the following procedures shall apply to the issuance of routine local permits needed to effectuate the construction of the Project:

Upon presentation of the Comprehensive Permit, subsequent more detailed plans (to the extent reasonably required relative to the local permit in question), and final approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7), all Local Boards shall take all actions necessary, including but not limited to issuing all necessary permits, approvals, waivers, consents, and affirmative actions such as plan endorsements and requests for waivers from regional entities, after reviewing such plans only to insure that they are consistent with the Comprehensive Permit (including any Waivers), the final approval of the Subsidizing Agency, and applicable state and federal codes.

¹⁰ Local Board is broadly defined to include "any local board or official including, but not limited to, any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; city council or board of selectmen." 760 CMR 56.02.

760 CMR 56.05(10)(b). Additionally, the Board retains supervisory and directive authority over all Local Boards following the issuance of a Comprehensive Permit and “may issue directions or orders to Local Boards designed to effectuate the issuance of a Comprehensive Permit (including any Waivers) and the construction of the Project.” 760 CMR 56.05(10)(c).

By virtue of the comprehensive nature of this permit, the only other Local Board approvals that the Applicant is required to seek outside of this public hearing process (and which will not be subsumed in the Comprehensive Permit issued by the Board) are those permits that are required by state or federal law. For this Project, no such approvals are required. Therefore, following approval by the Board and issuance of Final Approval by MassHousing, the Applicant will be required to file for issuance of the necessary demolition, building, and other construction-related permits, which will include review of the Project’s stormwater management system in accordance with applicable NPDES requirements.

IX. Additional Information & Project Changes

The applicant reserves the right to provide – and anticipates providing – additional information to the Board during the hearing process. To the extent the Board wishes to request information during that process, the Board should be guided by the submission requirements of the Act and its implementing Regulations rather than any local rules or submission requirements, which are subject to waiver.

As noted previously, the Project plans hereby submitted for the Board’s consideration represent preliminary development plans. Where local ordinances or regulations may typically require more detailed plan submissions, these requirements are superseded by Chapter 40B and its implementing regulations. Project details are also subject to modification in accordance with 760 CMR 56.05(11) – including, without limitation, following the issuance of a Comprehensive Permit for this Project. In the event of such modification, the Applicant will notify the Board in accordance with this section.

X. Abutters and Notice

Written notice by mail is required with respect to all owners of land directly abutting the Property, owners of land directly across Essex Street from the Property, and owners of land that abuts land of the direct abutters *and* is located within 300 feet of the Property. See abutter map in Exhibit 16. Enclosed with this application is the City’s comprehensive permit application, which includes a request for a certified list of abutters from the Melrose Assessor’s Office.

Public notice must also be given by publication in a newspaper of general circulation in the City of Melrose “once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing” and must be posted “in a conspicuous place” in Melrose City Hall for a period of not less than fourteen days before the day of such hearing. Notice is also required to the Melrose Planning Board and the planning boards of each of the Towns/Cities that abut Melrose – i.e., Wakefield, Saugus, Revere, Malden, and Stoneham. See M.G.L. c. 40A, § 11. The issuance of these public notices is the obligation of the Board; although the cost of doing so may be passed on to the Applicant, the task of issuing such notices may not. *Planning Bd. of Peabody v. Bd. of Appeals of Peabody*, 358 Mass. 81, 83 (1970).

XI. Filing Fees

The Board’s Comprehensive Permit Rules specify a filing fee of \$3,000.00 plus \$300.00 per unit. Based on the proposed 76 residential units, this would require a filing fee of \$25,800.00. The Applicant hereby notes for the record that it objects to the payment of this filing fee on the basis that it is excessive and unreasonable within the meaning of 760 CMR 56.05(2), which limits local fees to “a reasonable filing fee . . . to defray the direct costs of processing applications, and taking into consideration the statutory goal of [Chapter 40B] to encourage affordable housing development.” Without waiving this objection, and although the Board’s local rules are subject to waiver under Chapter 40B, enclosed herewith is a check for this filing fee. The Applicant hereby reserves all rights to object to the payment of such fee at the appropriate time and before the appropriate venue, including to the Housing Appeals Committee on the basis of unreasonableness.

Notwithstanding the foregoing, the Applicant respectfully requests that the per-unit portion of the enclosed filing fee be deposited into a M.G.L. c. 44, § 53G account for any peer review or consultant services that the Board retains to review the Project. It should be noted here that consultant fees may be assessed to the Applicant only where the necessary technical advice “is unavailable from municipal employees”, and in any event “[t]he Board should not impose unreasonable or unnecessary time or cost burdens on an Applicant”.¹¹ Outside consultant review must be limited to “work in connection with the Applicant’s specific Project” and review of materials “prepared on behalf of the Applicant, and not of independent studies on behalf of the Board.” 760 CMR 56.05(5)(a-b). Please note that 40B regulations do not allow any costs for legal review to be imposed on the Applicant. 760 CMR 56.05(5)(a).

¹¹ In this regard, the Applicant notes that the Massachusetts Housing Partnership (MHP) maintains a technical assistance program (TAP), whereby municipalities can request and be provided with the services of a technical advisor who specializes in Chapter 40B regulations without cost to the municipality.

XII. Conclusion

The Project, as proposed by the Applicant, will be an attractive, well-designed, affordable housing development that will address a shortage of affordable rental housing in the City of Melrose. The Applicant respectfully submits that the Project will make optimal use of an underutilized site in close proximity to public transport in order to address a pressing regional and local need for affordable housing, while also protecting the health, safety, and environmental concerns of local residents and prospective residents of the Project.

Based on the foregoing, the Applicant respectfully requests that the Board open a Public Hearing on the within Application within thirty (30) days of the filing of this Application, as required by 760 CMR 56.05(3). Pursuant to that section, the Board “shall thereafter pursue the hearing diligently”, which hearing “shall not extend beyond 180 days from the date of opening the hearing”. Pursuant to 760 CMR 56.05(8)(a), the Board’s final Decision on this Application must thereafter be rendered within forty (40) days after the close of the Public Hearing.

Respectfully Submitted,

Cedar Park Development LLC

By its Attorney,



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