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November 20, 2020

Via Hand Delivery

Town of Belmont
Zoning Board of Appeals
Attn: Nicholas Iannuzzi, Chair
Homer Municipal Building
19 Moore Street
Belmont, MA 02478

Re: M.G.L. c. 40B Comprehensive Permit Application
Applicant: 91 Beatrice Circle, LLC (“Applicant”)
Property Location: 91 Beatrice Circle, Belmont, MA (“Property”)

Dear Board Members:

This letter and the enclosed application materials constitute an application pursuant to Chapter 40B of the Massachusetts General Laws and the regulations promulgated thereunder (760 CMR 56.00) (“Act”), and the regulations promulgated by the Belmont Zoning Board of Appeals (“Board”), for a Comprehensive Permit (“Permit”) to authorize the construction of a 12-unit rental apartment development on the above-referenced Property (“Project”).

I. The Applicant

This application is filed on behalf of the Applicant, which is a Massachusetts limited liability company with a business address care of Regnante Sterio LLP, 401 Edgewater Place, Suite 630, Wakefield, MA. A copy of the Applicant’s certificate of organization is enclosed in the within binder of application materials under Tab 1. The Applicant’s managers are Joseph A. Tamposi, Jacob B. Tamposi, and Stephen A. Tamposi. The Applicant has stipulated and agreed to

a limitation on its return on total investment in the Project pursuant to the requirements of the Act. Accordingly, the Applicant qualifies as a limited dividend entity within the meaning of the Act.

The owner of the Property is Comprehensive Land Holdings, LLC (“Owner”) (which is a related entity under the same management as the Applicant) pursuant to a deed dated October 24, 2019, which is registered in the Southern Middlesex Registry District as Document 01827910 on Certificate of Title 271959. The Applicant will be the developer of the Project and has obtained from the Owner an assignment of the development rights with respect to the Property. As evidence of site control of the Property within the meaning of the Act, copies of the above-referenced deed and certificate of title to the Property, Land Court Plan 2367-12, and the assignment agreement noted above can be found under Tab 2.

II. The Development Team

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

DEVELOPER

91 Beatrice Circle, LLC
Stephen A. Tamposi, Manager
Joseph A. Tamposi, Manager
Jacob B. Tamposi, Manager

CIVIL ENGINEERING

DeCelle-Burke-Sala & Assocs., Inc.
Jim DeCelle, P.E.
James W. Burke, P.E.
Claudio Sala, P.L.S.

LEGAL

Regnante Sterio LLP
Jesse D. Schomer, Esq.
Theodore C. Regnante, Esq.

LANDSCAPE DESIGN

Verdant Landscape Architecture
Blair Hines, PLA
Katya Podsiadlo, PLA

ARCHITECTURE

Embarc, Inc.
Dartagnan Brown, AIA
Daniel Riggs, AIA

TRAFFIC/SAFETY

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

Contact information and biographical information for the Development Team can be found under Tab 3.

III. Project Eligibility

By letter dated November 3, 2020 (“PEL”), the Applicant has received site approval for the Project from the Massachusetts Housing Finance Agency (“MassHousing”). See Tab 4. A copy of this letter is hereby submitted in compliance with 760 CMR 56.05(2)(g). Obtaining the PEL satisfies the jurisdictional requirements of 760 CMR 56.04(1). MassHousing has given all required notices of the Project and the issuance of the PEL to the Town of Belmont Select Board (“Select Board”) and the Massachusetts Department of Housing and Community Development (“DHCD”). Funding for the Project will be provided through a Massachusetts bank (to be determined) that is a member of the New England Fund (“NEF”), which is a qualifying subsidy program designed to facilitate the development of affordable housing.

The PEL issued by MassHousing discusses a number of issues that it suggested should be addressed during the public hearing before the Board. MassHousing’s comments, and the Applicant’s responses thereto, are as follows:

- MassHousing Comment: “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, 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.” PEL, p. 4.
 - Applicant’s Response: As is required for all Chapter 40B developments, the Project has been designed to comply with all state and federal environmental laws, regulations, and standards relating to construction, stormwater management, wastewater collection, and hazardous waste safety. Such compliance can be made a condition of the Comprehensive Permit for the Project. The details of the Project’s

stormwater collection system and wastewater collection system are outlined in the Applicant's stormwater management report and the Project engineering plans. As discussed below, the stormwater management system meets all of MassDEP's applicable ten stormwater management standards. With respect to hazardous waste, there is no history of uses associated with hazardous waste at the Property nor any evidence of such waste, so this concern is likely not applicable. The Applicant looks forward to addressing these issues in greater detail during the public hearing process and is fully confident that any/all legitimate concerns will be adequately addressed.

- MassHousing Comment: “The Applicant should be prepared to respond to Municipal concerns relative to potential off-site traffic impacts on area roadways and intersections and to respond to reasonable requests for mitigation.” PEL, p. 4.
 - Applicant's Response: As stated in the Applicant's traffic report (Tab 17), traffic and roadway infrastructure in the vicinity of the Property has “ample capacity” to accommodate Project traffic, which is “projected to be nominal . . . with no material impact to operating conditions” More specifically, even in the weekday morning and evening peak traffic conditions, Project traffic will contribute only about one vehicle trip every 10 minutes – an imperceptible increase – and the site driveway will operate under Level of Service (LOS) A. Despite having a de minimis impact on traffic, the Applicant proposes to undertake “access/egress improvements and pedestrian and bicycle accommodations . . . [which] will adequately mitigate the project impacts.”
- MassHousing Comment: “The Applicant should be prepared to verify that the site plan is fully compliant with public safety standards relative to emergency access and provisions for fire suppression.” PEL, p. 4.
 - Applicant's Response: As discussed further in the Applicant's traffic report, the proposed site condition and adjacent roadways have been analyzed using Auto Turn engineering software in order to confirm that the Town of Belmont's largest emergency vehicles can safely and successfully maneuver into and out of the site via the proposed access driveway. Based on this analysis, the Applicant's traffic engineers have concluded that “Site access, circulation aisles and parking layout provide adequate maneuvering area for the largest potential responding vehicle (ladder truck).” The Applicant looks forward to discussing site management and access with the Belmont Fire and Police Chiefs in order to address any concerns that may remain.
- MassHousing Comment: “The Applicant should be prepared to discuss concerns raised by the Municipality regarding the proposed size, scale, architectural style and pedestrian access of the proposed multi-family buildings.” PEL, p. 4.

- Applicant's Response: The proposed density and massing of the proposed buildings have been designed to make a more efficient use of land than is presently allowed under local zoning. As noted by MassHousing in the PEL, the Project has been revised to reduce the proposed density from 16 units to 12 units – a 25% reduction.¹ As part of this reduction, the Project was redesigned to create a transition from the 4-story, 8-unit townhouse building at the front of the site (nearest Frontage Road and Route 2) by replacing a second townhouse building with four, 2-story single-family residential structures, which integrates the Project into the neighborhood. In terms of the concerns expressed by local officials and neighbors regarding neighborhood character and density, it should be noted that the neighborhood and surrounding properties are developed more densely than would today be allowed under current zoning requirements due to exclusionary downzoning that occurred subsequent to the development of the existing homes. The Applicant has requested reasonable waivers from applicable dimensional requirements, most of which will have no material effect on neighbors, including the front setback (which is well screened from Frontage Road by means of the Beatrice Circle paper street layout), right side setback (which leaves over 100' of distance to the nearest structure), and rear setback (which leaves 63', 78', and 81' of distance to the nearest three structures). As to the left side setback, a minor waiver of less than 3 feet is requested to the left side building wall, and this is necessary in order to provide adequate width for the site driveway.² The Applicant's design team looks forward to a constructive discussion of this issue during the public hearing process.
- MassHousing Comment: "The Applicant should be prepared to provide detailed information relative to light and noise impacts and respond to reasonable requests for mitigation." PEL, p. 4.
 - Applicant's Response: The site layout has been selected to minimize light and noise impacts to surrounding properties, particularly noise and light impacts from vehicles entering and exiting the site. This is achieved by locating the site drive aisle between the rows of buildings, which provide a physical barrier to noise and light impacts. Along the easterly property line, additional screening is provided by means of the elevation change and retaining wall along the property line. Additional screening is provided by the extensive landscaping that is proposed along the

¹ With respect to the Town's concerns regarding bedroom counts, the Applicant respectfully notes that the Attorney General has determined that limitations on the number of bedrooms imposed by zoning and other local regulation may constitute discrimination on the basis of familial status in violation of the federal Fair Housing Act and the Massachusetts Anti-Discrimination Law. *See* Atty. Gen. Ltr. Apr. 9, 2019 (Milton Zoning Bylaw Amendment, Warrant Article 9, A.T.M. Oct. 22, 2018).

² The ground floor of this building extends slightly outward to provide a common sprinkler room, but it will be located below grade.

easterly and southerly property lines, including 37 evergreen trees, which will provide year-round screening for both noise and light.

- MassHousing Comment: “The Applicant should be prepared to provide detailed information related to the existing slope and the site work required to stabilize the slope.” PEL, p. 4.
 - Applicant’s Response: As shown on the existing condition site plan, the site and vicinity currently feature a gradual downward slope running west to east. The highest point is currently at the northeast corner (elevation 236) and its lowest point is along the easterly lot line (elevation 216). The driveway across Beatrice Circle slopes downward towards Frontage Road at 10%. The Applicant proposes to maintain the slope and general location of the existing driveway as the proposed access drive for the development. The eastern portion of the site is constructed at grade with a retaining wall being constructed to support the easterly surface parking lot. The minimal grades and the retaining wall minimize the earthworks in this area, which minimizes the potential for erosion. The westerly elevation of the Property will be reduced to minimize slope across the site, allowing easier pedestrian and vehicular access to the units. The regraded portion of the site will provide a more optimal approach to the development portion of the site, which will also be regraded (primarily through cuts in the existing grade) to take advantage of the grade change on the site to hide portions of the townhouse building partially below grade, which will lessen the appearance of massing. A series of retaining walls is proposed to accommodate the proposed cuts in grade, which will also preserve the ability to provide landscaping around the site perimeter for additional screening. Where required by applicable state and federal code requirements, safety railings will be provided along retaining walls to ensure safety. An Erosion & Sedimentation Control Plan and a Construction Management plan have been submitted specifically to address slope stabilization and the minimization of off-site sediment transport during construction. The Applicant will continue to work with the Town to meet any related concerns regarding site stabilization.
- MassHousing Comment: “The Applicant should be prepared to discuss a proposed landscaping plan and potential for additional open space.” PEL, p. 4.
 - Applicant’s Response: The Applicant’s proposed landscaping plan can be found herein under Tab 15. The site landscaping is based on the following objectives: (1) provide a dense, fast growing evergreen screening planting and fencing where appropriate along the west and south property lines to provide year-round screening of the townhouses, (2) provide plantings to create an attractive/welcoming front entrance to the residents and to accent the architecture of the townhouse units, and (3) primarily use native and drought tolerant plant species adaptable to the site conditions.

The within Application addresses each of these issues, which will be further addressed by the Development Team at the public hearings on this Application.

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).³

The Property is known as and located at 91 Beatrice Circle in north Belmont, in the Belmont Hill neighborhood near the town line with Arlington. The Property is located in the Single Residence A zoning district under the Belmont Zoning Bylaw and Map. The Property's street frontage is on Frontage Road (labeled as Hinckley Way by Google Maps satellite imagery and occasionally referred to as such), a frontage road for Massachusetts Route 2 (Concord Turnpike), an eight-lane highway providing service for commuter traffic for the City of Boston and the west and northwest communities of the Metro Boston region.⁴ Frontage Road is a one-way, two-lane road that travels parallel to and provides access to the Concord Turnpike (Route 2) roughly half a mile to the east of the Property. Route 2 also delineates the municipal boundary between Arlington and Belmont. Frontage Road is located on multiple MBTA bus routes (62/76 and 78), which provide service to two MBTA transit hubs in Cambridge (Alewife and Harvard). Directly across Frontage Road from the Property is a pedestrian walkway across Route 2, which allows pedestrian

³ 760 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)."

⁴ The Property's street address on Beatrice Circle is based on the fact that the Property formerly had frontage on a portion of Beatrice Circle that no longer exists following a taking by the Commonwealth in the 1960s to expand the layout of Route 2 and construct Frontage Road.

access to Arlington to the North. To the south, west, and east, the area is developed primarily with single-family homes.

The Property is located about a five-minute drive from the Belmont town center, with its shops, municipal buildings, places of worship, public library, recreational areas, MBTA Commuter Rail station, and other amenities. In the immediate vicinity of the Property are located numerous parks and recreation areas, places of worship, and schools. Enclosed under Tab 5 are a series of maps and aerial plans showing the location of the Property and surrounding site.

The Property is a roughly rectangular lot with approximately 23,496 square feet of land area, as shown on Belmont Tax Assessors Map 51 (Lot 36). At the front of the site abutting the parcel is a vegetated slope located in the former Beatrice Circle layout, which, as noted above, no longer exists on the ground due to a taking in the 1960s to expand the layout of Route 2/Frontage Road. The Property is presently developed with a large single-family home, detached garage, shed, and stone patio. The Property contains woods on its easterly side, but primarily consists of open lawn areas around the existing house. The property is currently serviced by a driveway with access to Frontage Road. Photos of the Property and surrounding properties are enclosed under Tab 6.

The existing condition of the Property is shown on Sheet 2 of a set of preliminary engineering plans enclosed herewith under Tab 7 (“Engineering Plans”), which were prepared by DeCelle-Burke-Sala & Associates, Inc. These Engineering Plans fully comply with and fulfill all requirements of 760 CMR 56.05(2)(a)⁵ with respect to the submission of preliminary site

⁵ 760 CMR 56.05(2)(a) requires “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.”

development plans and engineering plans. The aerial plans and site context photographs (see Tabs 5 and 6), together with the above-noted existing condition plans (see Tab 7) and the within existing condition narrative, fulfil the requirement of 760 CMR 56.05(2)(b) for an existing conditions summary for the Project.

Existing public utilities servicing the Property include public sewer, public water, electricity, natural gas, cable TV, telephone, and other communication lines, all of which tie in to the Property from Frontage Road. See Tab 7, Sheet 2.

There are no wetlands resource areas located on or within 100 feet of the Property. Rather, the nearest delineated wetland is located approximately 2,000 feet to the south of the Property. Copies of GIS wetlands maps from the Town of Belmont and MassDEP can be found under Tab 8. Because no portion of the Property is located within any area subject to the jurisdiction of MassDEP or the Belmont Conservation Commission, no Notice of Intent is needed for the Project. See Tab 8.

A review of the Federal Emergency Management Agency Flood Insurance Rate Maps shows that the Property is located entirely within a Zone X (Area of Minimal Flood Hazard). See Tab 9. A review of the Massachusetts Division of Fisheries and Wildlife maps indicates that the Property does not contain (and is not within 100 feet of) any certified vernal pools. See Tab 10. The Applicant has also reviewed the current Massachusetts Natural Heritage Atlas, 14th Edition (2017), which indicates that no portion of the Property is within any protected Priority Habitat or Estimated Habitat for species protected by the Natural Heritage & Endangered Species Program (NHESP). See Tab 11.

The existing single-family house at the Property is not listed on the National Register of Historic Places or the State Register (nor has it been found eligible for listing on the National or State Registers) and it is not listed on the Town's list of protected historical structures subject to the Town's Demolition Delay Bylaw. Similarly, the Property is not located in any local historical district overseen by the Belmont Historical Commission. See Tab 12.

V. Description of the Project

A. *Project Overview*

The proposed site conditions of the Project are shown on Sheets 4-6 of the Engineering Plans. See Tab 7. Proposed design features, floorplans, elevations, sections, and renderings for the Project are shown on the architectural plans prepared by Embarc, Inc. ("Architectural Plans"), which can be found at Tab 13. The Architectural Plans fulfil the requirement of 760 CMR 56.05(2)(c) to submit preliminary, scaled architectural plans.⁶ 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. A tabular analysis of the proposed building, in compliance with 760 CMR 56.05(2)(d) is enclosed under Tab 14.⁷ No subdivision of the Property within the meaning of the Subdivision Control Law, M.G.L. c. 41, § 81L is proposed, so no subdivision plan is required pursuant to 760 CMR 56.05(2)(e).

⁶ 760 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".

⁷ 760 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".

The Project will consist of one 8-unit rowhouse style townhouse building with four total stories (1 garage/residential story with 3 full residential stories above) and four 2-story single-family home units with garage parking. As noted above, all 12 units will be rental units. Each of the 12 units in the Project will have dedicated indoor garage parking for one vehicle, and there will be an additional 8 outdoor parking spaces for guests and overflow parking. The total number of parking spaces is 20 – a ratio of 1.67 per residential unit. All 12 residential units will contain four bedrooms, one of which is designated as a den/bedroom flex space.⁸

In order to take advantage of grade changes around the Property, the parking level of the townhouse building will be built partially below grade, which slopes upward towards the westerly side of the site. By doing so, the westerly side of the building will present as a 3-story building to the nearest residential abutters. The easterly four townhouse units, sitting at a lower grade, will have primary access on their northerly side at the ground floor, with alternative access through the garage on the same level. The westerly four townhouse units will sit at a slightly higher grade and will thus have primary access on their northerly side at the second floor, with secondary access through the ground floor garage. Access to all four single-family units is at the ground floor, with secondary access through the garage on the same level.

B. *Project Architecture/Design*

The Project has been designed so as to integrate a multifamily development into the existing features of the site and architectural fabric of the primarily single-family residential

⁸ It should be noted that all 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 DHCD, MassHousing, the Massachusetts Housing Partnership Fund Board ("MHP"), the Massachusetts Development Finance Agency ("MassDevelopment"), and the Community Economic Development Assistance Corporation ("CEDAC").

neighborhood. At the northerly side of the site (nearest to Frontage Road and Route 2), the proposed rowhouse style building will contain 8 wood-framed townhouse units, each with a self-contained covered parking space, laundry, and HVAC systems. These four-story units will transition to the 4 two-story single-family homes on the southerly side of the site in order to modulate the density and height of the site development. The units are organized as two distinct rows with vehicular access running through the middle of the site to minimize visual impact, light, and noise from vehicles coming and going. There is additional surface parking located off the drive entry for a total of 20 spaces on-site – more than sufficient for a location as well-served by public transport as the Property is. All units will have direct pedestrian access from walking paths provided on site, as well as from the units' garages.

The height and scale of the townhouses transitions from 4 story units fronting on Frontage Road to 2-story units in the rear of the site, the height of which closely relates to that of the abutting neighbors on Beatrice Circle. At its tallest point, the ridge line of the rowhouse building will have a height of 41 feet, which is just slightly higher than the 36' building height permitted as of right in the SR-A zoning district. For the single-family home units, the ridge line stands at just under 24 feet, well within the limits of what is allowed by right.

In terms of architectural style, the 4-story row of townhouses is intended to be more contemporary and in keeping with similar new developments happening along the Concord Turnpike corridor. These units along Frontage Road also feature 4th-floor terraces looking towards the Boston skyline. The 2-story row of single-family units uses the same material palette as its counterpart but is detailed more traditionally to integrate with the style of the rear abutting neighbors. The entirety of the units will utilize traditional architectural elements, including pitched

roofs, gables, and natural clapboard materials, which speak to some of the more traditional aspects of Belmont's existing housing stock. In this way, the more traditional color pallet and design motifs of the rear single-family units help introduce and harmonize with the more contemporary four-story townhouses that abut Route 2 and reflect the denser development of the Route 2 corridor.

This transition from more traditional design elements to a more modern approach, all with high quality building materials and informed detailing, will create a harmonious, appropriately scaled, and nuanced façade design in keeping with the surrounding architectural fabric of the existing neighborhood. This design approach is in keeping with the recommendations of the *Handbook: Approach to Chapter 40B Design Reviews*, promulgated by DHCD, MassHousing, MassDevelopment, and MHP, which specifically contemplates higher-density multifamily apartment developments in existing single-family neighborhoods where the building typology and design have been designed to relate to the existing neighborhood and to reduce the visual impact of massing, height, and scale.

Due to the small number of units, no common recreational space is proposed. Instead, the site has been developed to maximize and facilitate the flow of vehicle and pedestrian traffic via the various driveways and walkways. As noted, all 8 townhouse units will have fourth floor terraces with a skyline view of Boston, plus an additional terrace at the second floor of each unit to provide additional space for recreation and outdoor living. For the same reason, all four single-family units will contain outdoor lawn and patio space on the ground floor. To lessen impacts to neighbors, none of these units is proposed to have a terrace.

The proposed townhouse units have two layouts, all with a typical square footage of approximately 1,800 square feet on four levels. The proposed single-family units will share the

same layout with a typical square footage of 1,700 square feet on two levels. As noted, all 12 units are 4-bedroom units, each with ample living spaces and comfortably sized bedrooms, laundry, and storage areas. Each unit will have 2.5 bathrooms including master bedroom en suites. All units will have washer and dryer units, along with individual heating and cooling systems. Interior finishes will be upscale, and the apartments have been sized to be consistent with market demand.

In sum, the Project will provide a desirable place to live in a sought-after residential community with comfortable homes and attractive amenities designed to serve the interests of residents in today's market.

C. *Project Civil Engineering and Site Design*

The site layout of the Project has been designed to balance the need for a vegetative buffer between the Project and the abutting properties while maximizing the available space for parking and access. Because, as noted above, the layout of Beatrice Circle is densely wooded, the Project will be largely imperceptible from Frontage Street at street level. This tree cover will remain, and as much of the existing tree coverage on the easterly side of the site will remain as well. As shown on the preliminary landscaping plan enclosed herewith, landscaping is proposed around the buildings and throughout the site to further buffer the Project from neighbors and to soften visual appearance of pavement and buildings. See Tab 15.

As noted, a total of 20 total parking spaces are proposed, including 12 interior parking spaces (one per unit) plus an additional 8 surface parking spaces. At 12 units, this translates to a parking ratio of 1.67 parking spaces per residential unit, which exceeds statewide standards for Chapter 40B development projects and the recommendations of the Institute of Transportation

Engineers (“ITE”). Indeed, this arrangement is only four spaces short of the requirements of local zoning for 12 residences. All exterior parking spaces will be 18’ long by 9’ wide.

As shown on the Engineering Plans, the site has been designed with a single two-way driveway with a minimum width of 20’. This driveway will access both the eight surface parking spaces and the garage parking for all 12 units via a drive aisle running between the two rows of buildings. Between the single-family house units and the surface parking area is a 16’-wide turnaround area for large vehicles, such as emergency vehicles or delivery trucks. This driveway system will allow for emergency vehicles to access all areas of the site and has been designed to allow local firefighting apparatus to access all areas of the buildings and surface parking area.

In general, loading arrangements will be handled by means of an operations and maintenance plan for the Project, which will be prepared following construction and prior to the building opening to residents. Collection of garbage and recyclables will be handled in each individual unit, with a common area for street collection at a location to be determined with the local trash collection company, and which will be managed in accordance with the site operations and maintenance plan. That plan will also address all aspects of site maintenance, including maintenance of landscaping, snow clearing and storage, etc.⁹

In its existing condition, the Property has no stormwater management of any kind, and stormwater flows freely from the higher points of the site at the northerly and westerly side of the Property towards and onto abutting properties to the south and east. The Project includes a proposed stormwater management system, which will utilize a combination of stormwater best-

⁹ As stated in the preliminary engineering report, snow will be plowed to the edges of the impervious surfaces on the site. In the event of excess snow accumulation, site management will arrange for excess snow to be removed and disposed of off-site.

management practices, including deep sump catch basins at the Property's low points, oil/water separation devices, and a row of subsurface infiltration basins under the site driveway. These infiltration basins will serve as the primary mechanism to collect and release stormwater. As a backup to this mechanism, the system is proposed to connect to a new 10" subsurface drain line connecting to the existing municipal storm sewer system in Frontage Road. By providing these dual stormwater management mechanisms, the infiltration basin component of this system will capture and release most stormwater, while the municipal connection will collect excess/overflow stormwater during extreme weather events. This system is outlined in the Applicant's Stormwater Management Report and Sheet 6 of the Engineering Plans. An executive summary of the Stormwater Management Report can be found at Tab 16 of the within binder, and the full report is also separately enclosed. This system has been designed to meet all of the applicable Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Standards, as outlined in MassDEP's Stormwater Handbook. When a project complies with these standards, there is a 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.

Sheet 6 of the Engineering Plans shows all proposed utilities for the Project, as required by 760 CMR 56.05(2)(f).¹⁰ Public water, sewer, storm drain, electrical, natural gas and communications services are available to the Property via connections in Frontage Road. For water service, the Project proposes to abandon the existing 1" copper service line and make a new

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

connection to public water under Frontage Road via a 6” ductile iron water line. For sewer service, the Project proposes to reuse the existing 6” sewer line and make one new 6” connection to public sewer services – the re-used service for the 8-unit townhouse building and the new sewer service for the 4 single-family units. As noted, the Project also proposes a single connection to the municipal storm drain system to handle overflow events. The Project will be designed in accordance with the reasonable recommendations of the Belmont Town Engineer so as not to have any material adverse impact on the Belmont sewer, storm drain, and water systems.

The Project proposes to make new underground electrical and natural gas connections. Telecommunications, cable, and internet connections will be arranged with local providers. The Project will have no adverse impact relative to any of these public services or utilities to abutting properties or to the Town in general.

D. *Project Impacts and Impact Mitigation*

Site access has been designed in order to ensure no adverse impacts to public safety. As noted, public safety vehicles will have access to and from the Property via Frontage Road, a public way, and the site layout has been designed to enable adequate access to the proposed building for firefighting equipment. With respect to traffic and safety, the Applicant has conducted a Traffic Impact Analysis dated September 23, 2020 prepared by MDM Transportation. The executive summary of that report can be found under Tab 17, and the full report is also enclosed. That study concluded, among other things, as follows:

- Based on the fact that there were no reported crashes on Frontage Road adjacent to the Property, “no immediate safety countermeasures are warranted based on the crash history.”

- “Proposed clearing and regrading associated with construction of the proposed Site driveway will provide sight lines that exceed AASHTO’s recommended criteria . . . [and] provide ample visibility for vehicles approaching and leaving the Site driveway to properly exit/enter the Hinckley Way traffic stream in a safe manner.”
- New vehicle “trip generation is projected to be nominal on area roadways . . . with no material impact to operating conditions . . .” More specifically, the Project is projected to generate approximately 7 new vehicle trips during the weekday morning rush hour, 8 new vehicle trips during the weekday evening rush hour, and a total of 96 trips on weekdays. Frontage Road/Hinckley Way has “ample capacity” to accommodate this minor increase in area traffic “without the need for major infrastructure enhancements”.
- “Proposed access/egress improvements and pedestrian and bicycle accommodations . . . will adequately mitigate the project impacts.” Such improvements include optimizing the site driveway design, maintaining unobstructed sight line triangles, creating pedestrian connections, providing bicycle accommodations, and relocating the existing pedestrian crosswalk on Hinckley Way.
- “[T]he Site is likely to benefit by its close proximity to public transportation and opportunities for pedestrian/bicycle use”
- “[T]he unsignalized Site Driveway approach to Hinckley Way will operate with minimal delay at level of service (LOS) A during the weekday morning and weekday evening peak hours.”
- “Site access, circulation aisles and parking layout provide adequate maneuvering area for the largest potential responding vehicle (ladder truck).”

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

The Project will be constructed in a single phase, with construction to commence as soon as possible after approval of the Project. Anticipated impacts of the Project associated with the construction process include erosion and sedimentation, noise, dust, and debris control. 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.

Further details of the Project's impact mitigation protocols and procedures can be found in the Applicant's Engineering Report.

Because there are no notable historic or archeological features of the Property or its extant buildings, no impacts to historical resources is expected. As noted above, the local demolition delay bylaw is not applicable to the existing residential structure, which contains no inherent historical or architectural significance. Property tax records indicate that this structure was built in or around 1948. As such, no historical or archeological impacts will result from the construction of the Project.

Similarly, because there are no wetlands resource areas on or near the Property, nor any certified vernal pools or protected wildlife habitat areas on or in the vicinity of the Property, the Project will not result in any adverse environmental impacts. Indeed, the Project has been designed with energy efficiency in mind, and the increased residential density promotes optimal use of land and discourages suburban sprawl.

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 Belmont Zoning Bylaw and all other local bylaws and regulations, 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 the Belmont Zoning Bylaws and all other local bylaws shall be waived to the extent “required to permit the construction and operation of the Project.”¹¹ 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 and the Applicant reserves the right to do so.

In addition to the specific waivers outlined in Tab 18, the Applicant hereby notifies the Board that waivers are sought *in full* from each and every of the following local rules and regulations to the extent they differ from or exceed the requirements of state or federal law and to the extent they would impose additional permitting requirements for the Project:

1. Belmont Demolition Delay Bylaw;
2. Belmont Stormwater Management and Erosion Control Bylaw;
3. Belmont Flammable Fluids, Solids, & Gasses Bylaw;
4. Belmont Noise Bylaw;
5. Belmont Streets & Sidewalks Bylaw;
6. Belmont Planning Board Rules & Regulations;
7. Belmont Board of Survey Regulations;
8. Belmont Office of Community Development Regulations;
9. Belmont Department of Public Works Regulations;
10. Belmont Planning Board Design Review Guidelines;

¹¹ 760 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. 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.

11. Belmont Zoning Board of Appeals Comprehensive Permit Rules & Regulations.
12. Any/all other rules and regulations of the Belmont Board of Appeals, inclusive of any/all local filing fees and/or filing requirements to the extent they exceed the requirements of the Act and Regulations thereunder;
13. Any/all other rules and regulations of any other Town of Belmont board, commission, or department, except for fees specifically relating to Comprehensive Permit applications under the Act and Regulations thereunder, and only to the extent permitted thereby; and,
14. Any/all other applicable zoning or related municipal ordinances, codes, bylaws, rules, or regulations to the extent that the same may be necessary to enable the construction and operation of the Project.

VII. Chapter 40B and Local Housing Needs

Massachusetts General Laws Chapter 40B, §§ 20-23, also known as the Anti-Snob Zoning Act, 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”) for the Town of Belmont, as promulgated by DHCD, the stock of housing currently utilized in Belmont for low to moderate income purposes totals 661 units. Based on 10,117 total year-round housing units, 661 affordable units represents only 6.53%. See Tab 19. Although the Town of Belmont does have an approved Housing Production Plan, it is not currently certified as in compliance with that Plan, and thus is not in “safe harbor”.

With the Town of Belmont being so far below the required 10% threshold, there exists a legal presumption that the regional housing need in the Town of Belmont outweighs all local concerns other than health and safety, including such concerns as density, massing, design,

“neighborhood character”, and the like. In such cases, the municipality generally must approve the Comprehensive Permit and must grant the waivers needed to permit the Project. The only permissible conditions that the Board may impose are those that promote health/safety or other local interests that the Board can prove outweigh the regional housing need. Further, in order to deny a Comprehensive Permit application under such circumstances, a municipality must prove that the project will impact municipal services in a manner that presents an “irremediable hazard of gravity that outweighs regional housing needs.” *Wilson St. Trust v. Town of Norwood*, No. 71-06, slip op. at p. 26 (Mass. Housing Appeals Committee, Feb. 13, 1974).

The Applicant proposes and agrees that 25% of the total number of units in the Project (3 units) will be dedicated as affordable units. However, pursuant to DHCD regulations, all 12 units in the Project will be eligible for inclusion in the Town’s SHI upon the approval of the Project. As required by law, these affordable units will be subject to a regulatory agreement between the Applicant and DHCD, which will ensure that these units remain affordable in perpetuity (or for the maximum period permitted by law). In accordance with DHCD 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 DHCD, the affordable units will be marketed and made available to prospective qualified applicants on a lottery basis.¹² To the extent allowed by DHCD and the subsidizing agency (MassHousing) pursuant to fair housing laws, the Applicant is willing to agree that local Belmont

¹² 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 DHCD.

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 Board Permitting

As its name implies, the Board's issuance of a Comprehensive Permit will constitute a "comprehensive" approval under all local bylaws, rules, and regulations. As such, the only other local board approvals required under Chapter 40B are those required by other provisions of state law that are administered locally. In this instance, no other local filings are required for the Project other than the need to obtain a building permit under the State Building Code. As noted above, to the extent any other local rule, regulation, or bylaw would impose additional permitting requirements on the Project, such rules, regulations, and/or bylaws are subject to waiver.

IX. Additional Information

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 Regulations.

X. Abutters and Notice

Pursuant to the Act and the Regulations thereunder, notice of the public hearing with respect to this Application must be provided by the Board in accordance with M.G.L. c. 40A, § 11, which provides, in pertinent part, as follows:

In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of

such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. *“Parties in interest” as used in this chapter shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town.* The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes.

* * *

Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition, the date, time and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in such city or town.

M.G.L. c. 40A, § 11 (emphasis added). It should be noted that the task of issuing such notice must be undertaken by the Board, and cannot be delegated to the Applicant. *Planning Bd. of Peabody v. Bd. of Appeals of Peabody*, 358 Mass. 81, 83 (1970).

In accordance with M.G.L. c. 40A, § 11, notice by mail of the public hearing on this Application is required to the following parties:

- The Applicant;
- All direct abutters to the Property;
- All owners of land directly opposite the Property on any public or private street or way;

- All abutters to the direct abutters to the Property whose properties are located within 300 feet of the Property;¹³ and,
- The Planning Boards of the Town of Belmont, City of Cambridge, Town of Watertown, City of Waltham, Town of Lexington, and Town of Arlington.

Based on the foregoing, enclosed under Tab 20 are lists and maps of the abutters and planning boards entitled to receive notice of the public hearing with respect to this Application.

XI. Filing Fees

Enclosed herewith is a check for the local filing fee of \$1,500.00. Although the Applicant has enclosed payment for this filing fee, the Applicant 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. See 760 CMR 56.05(2) (limiting 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.”).

XII. Conclusion

The Project, as proposed by the Applicant, will be an attractive, well-designed, affordable housing development that will address a long-standing and serious shortage of such rental housing in the Town of Belmont. The site design and existing conditions afford ample area to accommodate the proposed Project and provide adequate open space. Moreover, the Project has been designed to minimize and mitigate potential impacts to municipal systems and services. The Applicant

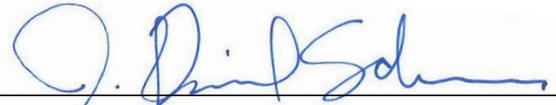
¹³ It should be noted that under the “abutters to the abutters” provision of M.G.L. c. 40A, § 11, notice by mail is not required to be issued to all owners of land whose properties are located within 300 feet of the Property – only those who are abutters to the direct abutters. *Arena v. Williams*, 18 MISC 000028 (MDV), 2019 WL 1320140, at *2 (Mass. Land Ct. Mar. 21, 2019), *aff’d*, 96 Mass. App. Ct. 1116, *rev. denied*, 484 Mass. 1103 (2020).

respectfully submits that the Project will meet a severe regional and local need for affordable housing will also addressing the health, safety, and environmental concerns of Belmont residents.

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,

91 BEATRICE CIRCLE, LLC
By its Attorneys,
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MassHousing
Department of Housing and Community Development