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**ZONING BOARD OF APPEALS
TOWN OF SWAMPSCOTT**

**SWAMPSCOTT HOUSING LIMITED PARTNERSHIP ELM PLACE, THE APPLICANT
COMPREHENSIVE PERMIT DECISION (Petition #21-01)**

I. THE PROJECT

- Property:** The subject Property, or Site, is located at 129 Essex Street, 25 Pitman Road, 35 Pitman Road, a portion of 21 Elm Place and 27 Elm Place (also known as 0 Essex St. or 21 Elm Place Rear) and shown on the Town of Swampscott Assessor's Map as Parcels 6-195, 6-243, 6-199, 6-118 and 12-104-0.
- Applicant:** Swampscott Housing Limited Partnership. The term "Applicant" shall include the Applicant's successors and assigns.
- Owner:** OceanVilla LLC (129 Essex Street, 25 Pitman Road, 35 Pitman Road); Bruce E. Paradise, as trustee of (21 Elm Place), and as Trustee of (21 Elm Place Rear, 27 Elm Place a/k/a 0 Essex Street).
- Project Eligibility:** By letter dated March 23, 2021, the Massachusetts Department of Housing and Community Development ("DHCD") issued a project eligibility letter (the "Project Eligibility Letter") to the Applicant to build one-hundred and twenty eight (128) rental units at the Property, with sixty-five (65) affordable units to be rented to eligible households earning no greater than 80% of Area Median Income and with thirty-five (35) affordable units to be rented to eligible households earning no greater than 60% of Area Median Income. During the course of the public hearings, the units were reduced to one hundred fourteen (114) units with forty-eight (48) affordable units to be rented to eligible households earning no greater than 80% of Area Median Income.
- Application:** In January 2021, the Applicant filed an Application for a Comprehensive Permit with the Board; the Applicant signed a waiver of the requirement to open the hearing within thirty (30) days; and on October 1, 2021, the Applicant filed a Supplement to the Application for Comprehensive Permit, incorporating feedback from the Peer Review process, and with

copies of all items requested and submitted to the Town of Swampscott Zoning Board of Appeals ("ZBA") throughout the ZBA Hearing process.

- Public Hearing:** On November 30, 2021, the public hearing on the Application timely opened and further hearings were held on January 11, February 15, and March 15, April 12, May 9, May 24, 2022 and the public hearing closed on June 13, 2022.
- The Board:** The following Town of Swampscott Zoning Board of Appeals members attended all public hearing sessions or missed one session and reviewed a recording or transcript of the missed session and all materials submitted: Marc Kornitsky, Chair; Daniel Doherty, Vice Chair; Bradley L Croft; and Board Alternate Heather L Roman.
- Decision Date:** On June 13, 2022, Members Marc Kornitsky, Chair; Daniel Doherty, Vice Chair; Bradley L. Croft; and Board Alternate Heather L. Roman voted to: issue Findings and grant the Requested Waivers and Application with conditions, as set forth below.
- Submittals:** Documents and plans submitted during the hearing are shown on **Exhibit A and Exhibit B.**
- Exhibits:** All Exhibits described in this Decision are attached hereto and incorporated herein by reference:

II. JURISDICTIONAL REQUIREMENTS:

Under 760 CMR 56.04(1), in order to be eligible to submit an application to the Zoning Board of Appeals for a Comprehensive Permit, the Applicant and the Project shall satisfy the following requirements under 760 CMR 56.04(1): (1) The Applicant shall be a public agency, a non-profit organization, or a Limited Dividend Organization; (2) the Project shall be fundable by a subsidizing agency under a low and moderate income housing subsidy program; and (3) the Applicant shall control the Site.

1. Applicant's Status

The Applicant is a limited dividend organization as defined under 760 CMR 56.02 by virtue of receiving the Project Eligibility Letter from the DHCD, and agreeing to sign the required Regulatory Agreement with the DHCD under the Low Income Housing Tax Credit Program; thus satisfying the requirements of 760 CMR 56.04(1)(a).

VOTED:

On June 13, 2022, the Board voted to find that the Applicant is a limited dividend organization under 760 CMR 56.02 and that the requirements of 760 CMR 56.04(1)(a) are satisfied.

2. Fundable Project

The Applicant received the Project Eligibility Letter indicating that the Project is fundable under the Low Income Housing Tax Credit Program; thus, satisfying the requirements of 760 CMR 56.04(1)(b)).

VOTED:

On June 13, 2022, the Board voted to find that the Project Eligibility Letter satisfies the requirement under 760 CMR 56.04(1)(b) that the Project be fundable by a subsidizing agency.

3. Site Control by Applicant

The Applicant submitted a Land Development Agreement dated January 15, 2020 and as amended August 4, 2021 and as further amended September 20, 2021 with Oceanvilla LLC, a Massachusetts limited liability company ("OV LLC") and Bruce Paradise, an individual ("Paradise"), Bruce E. Paradise, Trustee of Rear 21 Elm Place Realty Trust, and Bruce E. Paradise, Trustee of 21 Elm Place Realty Trust, collectively the owners of record of the Project locus, for purchase of the Site; and it has been determined by the DHCD in the Project Eligibility Letter that the Applicant has site control; thus, satisfying the requirements of 760 CMR 56.04(1)(c) that the Applicant has site control.

VOTED: On June 13, 2022 the Board voted to find that Applicant controls the Site as required by 760 CMR 56.04(1)(c).

VOTED: On June 13, 2022 the Board voted to find that the Applicant satisfies the jurisdictional requirements under 760 CMR 56.04(1).

III. FINDINGS OF FACT

Following completion of the public hearing and based on the evidence submitted to the Board from all sources, the Board made the following findings of fact:

1. The property ("Property" or "Site") consists of land located at 129 Essex Street, 25 Pitman Road, 35 Pitman Road, a portion of 21 Elm Place and 27 Elm Place (also known as 0 Essex St.) and shown on the Town of Swampscott Assessor's Map as Parcels 6-195, 6-243, 6-199, 6-118 and 12-104-0 comprising approximately 1.69 acres (73,695 sq. ft.) of land.
2. The Property contains no wetland resource areas, nor are any of the Project improvements proposed in wetland resource areas.
3. The Property, or Site, is located in the Business B-2 and Residence A-4 Zoning Districts.

4. The Project Site is currently occupied predominantly by a corrugated metal warehouse-type structure that serves as rented storage for contractors' building materials and equipment and its associated parking. There are also three additional structures on the project Site today: a vacant office building and two (2) residential structures. All of the structures above, which are currently located on proposed Lot 1, will be razed. All structures on Lot 2 and 27 Elm Place will remain. The majority of the Site's combined footprint (across all four parcels) today is asphalt surface parking. 27 Elm Place, where some parking spaces for the Project will be, is adjacent to this project Site and contains a storage building and asphalt surface parking.
5. This Decision is based on the final Building Plans prepared by The Architectural Team, Inc. entitled, "Elm Place" dated August 12, 2021 and revised through March 28, 2022, and the Site and Civil Engineering Plans ("Site Plans") prepared by Hancock Associates entitled "Elm Place" dated August 12, 2021 and revised through May 16, 2022 unless otherwise shown, and submitted to the Board as described below (collectively, the "Plans of Record"), all of which are listed on Exhibit A.
6. WinnDevelopment Company Limited Partnership, the managing member of the Applicant, represented to the Board that is an experienced and successful developer of affordable and mixed income multi-family housing, across the Country including in the Greater Boston area.
7. The Board retained the services of Ezra Haber Glenn, AICP, Executive Director, Public Planning, Research, & Implementation, Inc., via contract with the Massachusetts Housing Partnership, to represent the ZBA throughout the comprehensive permit process.
8. The Board retained Peer Review Consultants for Traffic, Utilities and Architecture, and their reviews and response to the reviews can be found in Exhibit B.
9. Rodney C. Emery, P.E. of WorldTech Engineering ("WorldTech"), was retained by the Board to conduct a traffic peer review based upon the site, and civil plans. Based upon several of WorldTech's recommendations, the Applicant made revisions to the Site Plans. With the modifications to the Site Plans, WorldTech's peer review of the traffic aspects of the Project found them to be in compliance with applicable state laws and regulations and followed good engineering practices, provided that certain conditions they proposed were included in this Decision; and such conditions are included herein as described in Exhibit C.
10. The Applicant submitted a Transportation Impact Assessment ("TIA") prepared by Jeffrey Dirk of Vanasse & Associates, Inc. ("Vanasse"), dated January 2021, which included certain recommendations, and also prepared and submitted a Parking Demand Study dated September 28, 2021.
11. Victoria A. Masone, P.E. of VM Consulting Engineers, LLC ("VM"), was retained by the Board to perform a peer review of the Site Plans, including utilities ("Site Plans"). Based upon several of VM's recommendations, the Applicant made revisions to the Site Plans. With the modifications to the Site Plans, VM's peer review of the site, civil engineering, and utility aspects of the Project found them to be in compliance with applicable state laws and regulations and followed good engineering practices, provided that certain

- conditions they proposed were included in this Decision; and such conditions are included herein as described in Exhibit D.
12. Cliff Boehmer of Davis Square Architects was retained by the Board to perform a peer review of the architectural/building/site layout plans for the Project ("Building Plans"). Based upon Mr. Boehmer's comment letters and several of his recommendations, the Applicant made revisions to the Building Plans incorporating such recommendations; and Mr. Boehmer expressed his satisfaction with the revisions, provided that certain conditions they proposed were included in this Decision; and such conditions are included herein as described in Exhibit E.
13. Based upon the reviews by the Board's peer review consultants, questions and comments from the Board members, and comments from residents of the Town, the Applicant presented a re-designed building, site layout and other improvements, including but not limited to, the following:
- Reduced the unit count from 128 to 120 units as a result of the enhanced design;
 - Reduced the number of stories along Pitman Road from five (5) to four (4), and
 - Reduced the number of stories along Essex Street from three (3) to two (2) to reduce massing and blend the building into the surrounding neighborhood context;
 - Changed the architectural style from modern to New England Coastal in order to blend the architectural style into the surrounding neighborhood architecture;
 - Moved parking spaces along Pitman Road to be entirely within the site's property line to enhance vehicular and pedestrian safety;
 - Added a parking lot with 21 additional project parking spaces to enhance parking alternatives with pedestrian connections linked to the Project building;
 - Increased parking ratio from 0.84 to 1.06 spaces per unit to meet generally accepted parking space requirements for similar types of multifamily communities in urbanized areas;
 - Further increased parking ratio from 1.06 to 1.15..
 - Reconfigured the vehicular access to the Site by incorporating a new driveway access point off Elm Place, and adjusted the parking layout to enhance pedestrian and vehicular safety;
 - Further reduced the number of Project units from 120 units to 114 units, and made six (6) of the eleven parking spaces proposed along Pitman Road available for public use by non-Project Town residents with parking permits, leaving five (5) of the remaining eleven parking spaces for the exclusive use of the Project; and,
 - Added pedestrian improvements along Elm Place, including sidewalks and crosswalks to enhance pedestrian connections in the neighborhood.
14. The Property is not within a Massachusetts Division of Fisheries and Wildlife Priority or Estimated Habitat for Rare Species under the Natural Heritage and Endangered Species Program.
15. The Property contains no wetlands and is not subject to jurisdiction under the state Wetlands Protection Act nor to any local Swampscott wetlands bylaw.
16. The Project will be connected to the municipal water system and municipal sewer system, and this Decision shall constitute the necessary permissions to make the

- connections to the municipal water and sewer systems, with no water and sewer connection fee waivers granted.
17. Throughout community meetings, the Applicant presented plans and excerpts from the Town Master Plan entitled "*Swampscott 2025: The Master Plan*" which states the goals to developing diverse housing stock tending to the town's lack of affordability, improving transit accessibility and amenities encouraging ridership, and revitalizing underutilized sites with a focus on the train station corridor, and the Project is consistent with the Swampscott 2025 Master Plan goals and objectives.
 18. Throughout community meetings, the Applicant also referenced the Town of Swampscott Housing Production Plan (June 2016) which states that near the Commuter Rail Station is an appropriate place for denser residential development to help address the Town's need for more affordable housing, and the Project is consistent with the Swampscott Housing Production Plan goals and objectives.
 19. The Applicant has represented that it will timely file a Notice of Intent under the US EPA National Pollution Discharge Elimination System (NPDES) General Construction Permit program prior to beginning any building construction on the Project, as well as a Stormwater Pollution Prevention Plan (SWPPP) prior to building construction. Copies of both the NPDES Notice of Intent and the SWPPP shall be submitted to the Board and Building Commissioner.
 20. The Applicant submitted to, and the Swampscott Fire Department reviewed, the Site Plans, access, emergency vehicle turning radius analysis, fire truck accommodations, hose accommodations, hydrant locations and roof access and the Swampscott Fire Chief and Deputy Chief indicated that the Fire Department was satisfied with accommodations and has provided multiple letters stating such, and Department conditions are outlined in the Fire Prevention Memo and incorporated as conditions in this decision in Exhibit F.
 21. The Board finds that the Applicant or a related single purpose entity to be approved by the DHCD will enter into a Regulatory Agreement as required by the DHCD which will be recorded with the Essex County South District Registry of Deeds.
 22. The approval of the Project, with the waivers and conditions hereinafter stated, is Consistent with Local Needs under Chapter 40B.

VOTED: On June 13, 2022 the Board voted to make the above-stated findings of fact.

IV. CONDITIONS

This Comprehensive Permit shall be a master permit which is issued in lieu of all other local permits or approvals that would otherwise be required, except for permits required under state law such as Building Permits and Certificates of Occupancy under the State Building Code, and except for any additional local approvals required herein which are not otherwise waived; provided, however, except to the extent local fees are waived in this decision, the Applicant shall pay all local fees for such permits or approvals in effect as of the date of the filing of the comprehensive permit application, including but not limited to building permits, inspections,

water connections, and curb cuts, unless such fees are specifically waived or reduced by this Decision.

A. Regulatory Conditions.

1. Pursuant to the requested Waiver List submitted to the Board and attached hereto as Exhibit I, the Applicant has requested, and the Board has granted, those waivers from the Swampscott Zoning Bylaw and other local by-laws and regulations as specified and/or conditioned herein. Those conditions are expressly incorporated by reference as conditions of approval to this Comprehensive Permit. No waivers are granted except for those expressly granted by the Board as set forth in Exhibit I. To the extent the Final Approved Plans reflect a waiver not expressly granted in Exhibit I, the terms and conditions of Exhibit I shall govern.
2. The total number of units that may be constructed at the Property shall be limited to one hundred and fourteen (114) rental units contained within a single building, with a mix of studio units, one-bedroom units, two-bedroom units, and three-bedroom units, and the rental unit mix shall be adjusted in the Final Approved Plans to incorporate modifications to reflect a reduction of 6 units in the Project.
3. No less than 42% of the rental units shall be leased to eligible households whose annual income does not exceed 80% of area median income, adjusted for household sized, as determined by the United States Department of Housing and Urban Development ("Affordable Units"); and the Affordable Units shall permanently remain affordable rental units for so long as the Project is not in compliance with the Town's Zoning By-law, or for the longest period allowed by law, if longer, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23. The Applicant shall cooperate with the preparation of request forms to add the Affordable Units to the Town's SHI. The Applicant shall notify the Board and the Planning Department when occupancy permits are issued and cooperate with the preparation of request forms to add the units to the Town's SHI.
4. The Affordable Units shall be dispersed throughout the Project as designated by the Applicant by agreement with the subsidizing agency. The Affordable Units and the market-rate units shall be constructed on substantially the same schedule. The Affordable Units shall be indistinguishable as viewed from the exterior from the market-rate units.
5. The Applicant shall execute a Regulatory Agreement as required under G.L. c.40B and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement. The Affordable Units in the initial leasing of the Property shall be identified in a tenant location plan to be approved by the Subsidizing Agency and the Affordable Units shall not be segregated from the market rate units.
6. The Applicant shall annually re-certify to the Subsidizing Agency, as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an affordable unit. If a previously eligible tenant becomes ineligible to occupy an affordable unit, the Applicant may charge the tenant a market rate rent; however, the Applicant shall comply with the Subsidizing Agency's requirements for converting another unit to an affordable unit.
7. While the Regulatory Agreement with the DHCD (or another Subsidizing Agency) is in

- effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto.
8. The Applicant shall provide reasonable and timely assistance to the Town in providing any required evidence to the Subsidizing Agency of the need for any local preference and assisting the Town in requesting approval of the categories of persons qualifying for the same to the Subsidizing Agency of the need for any local preference and to obtain approval of the categories of persons qualifying for the same. le
 9. The Applicant shall submit to the Board a report on marketing activity at the Project during the initial lease-up of the Project demonstrating compliance with the local preference requirement pursuant to the plan approved by the subsidizing agency as set forth below.
 10. The Applicant shall develop an Affirmative Fair Housing Marketing Plan ("AFHM Plan") for the Affordable Units for review and approval of the Subsidizing Agency, said plan to conform to any and all affirmative action requirements or other requirements as imposed by federal or state regulation and shall conform with the local preference requirement set forth above.
 11. The Town, by and through the Board or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.
 12. Prior to receiving any building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Building Commissioner and the Board.
 13. Applicant must obtain rights of access for work proposed on any private property outside of its ownership and/or control.

B. Background, Administrative and Procedural Conditions

1. The Applicant will record this Comprehensive Permit after the 20-day appeal period has expired (or after the termination of any appeals) at the Essex County (South District) Registry of Deeds and provide the recording information on the cover page of the Site Plans.
2. This Comprehensive Permit shall not take effect until recorded in the Essex County (South District) Registry of Deeds and no construction shall take place until the Applicant has provided proof of such recording to the Board and the Building Commissioner.
3. The Applicant shall provide the Town and its agent with authority to enter the Property during construction of the Project (subject to conformance with applicable health and safety requirements, including, but not limited to hard-hat, safety glasses, work boot requirements, and COVID-19 protocols, if applicable), with prior notice to Applicant in order to determine conformance with this Decision.
4. The Applicant shall pay all customary and reasonable fees imposed for the purpose of inspecting and monitoring the compliance of the Project's construction with the terms of this permit, local bylaw requirements not waived by this permit, and other permits and approvals issued with respect to this Project for which the Town has monitoring responsibility. All fees for Board consultants including fees incurred prior to the date of this decision shall be paid by the Applicant within 30 days of the receipt by the Applicant of the consultant's bill for services. Any outstanding fees owed for consulting services incurred by the Board before

- this decision was rendered shall be paid forthwith and before any building permit issues. Thereafter, no occupancy permit shall issue if an outstanding fee bill is 30 days overdue.
5. This Comprehensive Permit shall expire three (3) years from the date it becomes final as provided in 760 CMR 56.05(12)(c), and subject to tolling as provided in said Regulation, unless construction on the Project has commenced within such period. For the purposes hereof, "construction" shall mean the site work for the Project infrastructure, which may commence prior to issuance of the Building Permit for the Project. The Applicant may apply to the Board for reasonable extensions to this Comprehensive Permit for good cause as provided in 760 CMR 56.05(12)(c).
 6. The Applicant shall comply with all local by-laws, rules, regulations and fees of the Town of Swampscott unless otherwise provided, or unless expressly waived hereunder.
 7. The Project shall conform to all applicable state and federal laws, codes, and regulations including those of applicable subsidizing agencies such as Department of Housing and Community Development, MassHousing, HUD, etc. The provisions of this Comprehensive Permit shall apply to and be binding upon the landowner, the Applicant, and their employees and all successors and assigns in interest, whether by title, control, or contract.
 8. After the granting of this Comprehensive Permit, if the Applicant or successor desires to change the details of the Project as approved by the Board, it shall adhere to the requirements found in 760 CMR 56.05(11).
 9. Except as otherwise provided herein, the sidewalks, driveways, utilities, parking, drainage and stormwater systems, and all other infrastructure located on the Site and shown on the Final Approved Plans as serving the Project shall remain private in perpetuity, and the Town of Swampscott shall not have, now or in the future, any legal responsibility for the installation, inspection, operation or maintenance of the infrastructure, including but not limited to snow removal, trash and recycling, and landscape maintenance. In this regard, the driveway within the Project shall not be dedicated to or accepted by the Town as a public way.
 10. The Applicant shall provide the Board, through the Board Secretary and the Building Commissioner, with all copies of any federal and state permits to ensure the Applicant's compliance with Section IV.B.7 above. And with any local permits required by this Decision, other than plans filed with the Building Commissioner to comply with the State Building Code.

C. Prior to Site Construction Conditions

1. Prior to the start of site construction, the Applicant shall provide to the Building Commissioner and the Board:
 - a. a final set of Site and Engineering Plans, which shall include but not be limited to the stormwater plans and calculations (the "Site Plans") for review by the Board's peer review consultant to ensure consistency with the terms of this Decision, and as adjusted based upon such final review (the "Final Site Plans"). The Final Site Plans shall also incorporate modifications to reflect a reduction of 6 units in the Project to be removed from the Pitman Road side of the building adjacent to the rail trail to

accommodate the approximate 25-foot rail trail easement described in Condition IV.G.9 described below, as well as a total of 35 parking spaces located at 27 Elm Place. Applicable sheets of the Final Site Plans shall be signed and sealed by the Professional Land Surveyor of record, the Professional (Civil) Engineer of record. Any comments from the peer review consultant, the Board or the Building Commissioner shall be made in writing within thirty (30) days after submission by the Applicant, and if no comments or requests for additional information are received within such period then the Site Plans shall be deemed to be the Final Site Plans and consistent with the terms of this Decision.

- b. evidence of securing coverage under the 2022 Federal Clean Water Act National Pollution Discharge Elimination Systems (NPDES) Construction General Permit (CGP) for Massachusetts (Permit No. MAR100000) for the Project;
 - c. a Final Construction Management Plan, including all items identified in the Construction Management Plan submitted by the Applicant during the hearing, and which will include a construction schedule, and which shall be conforming to industry standard practice and addressing all construction-related conditions specifically set forth in this Decision. The CMP shall include, at minimum, the information required under Condition C.5 of this Decision.
 - d. If the Board desires to retain outside peer review for technical review and for inspections required under this Decision, a check in the amount of \$10,000 as an initial deposit shall be provided by the Applicant to the Town, and said funds shall be deposited by the Board in an account pursuant to G.L. c. 44, s. 53G and shall only be used by the Board for technical reviews and inspections associated with this Project. Any unspent funds shall be returned to the Applicant with accrued interest at the completion of the project. If at any time the Board reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Board in a reasonable amount as may be determined by the Board. The funds may be used by the Board to hire civil engineering, hydrology, architect, traffic engineering, accounting, and/or other (non-legal) professionals that the Board deems reasonably necessary to ensure compliance with the conditions of this Decision.
 - e. details of any temporary construction signs.
2. Prior to the commencement of any work on the site, the Applicant and the site general contractor shall attend a preconstruction conference with the Building Official and other Town staff. If Applicant has obtained a demolition permit, Applicant may proceed with demolition of existing structures in accordance with the terms and conditions of the permit. Applicant shall further meet monthly with the Building Official and other Town staff if requested by the Building Official and/or any other Town Staff member until construction is complete.
3. There shall be no exterior construction activity on the Property before 7:00 a.m., except fueling of vehicles which may begin at 6:30 a.m. or after 7:00 p.m., Monday through Friday

and before 8:00 a.m. or after 5:00 p.m. on Saturday. There shall be no construction on the Property on the following days unless a special approval for such work has been issued by the Building Commissioner: Sundays or the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas. The Applicant agrees that the hours of operation shall be enforceable by the Building Commissioner.

4. The Applicant shall implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from the Building Commissioner or other appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements. For purposes of this condition, construction activities shall be defined as: start-up of equipment or machinery, vehicle fueling; vehicle access to and from site; delivery of building materials and supplies; delivery or removal of equipment or machinery; removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities both on and off the site; removal of stumps and debris; and erection of new structures. All off-site utility work shall be coordinated and approved by the Building Department and shall not be subject to the timing restrictions set forth above. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. During construction, the Applicant shall provide means to secure the front entrance to the Site at appropriate times to protect against unauthorized entry or vandalism, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
5. The Applicant shall prepare and submit a Construction Management Plan (CMP) for review and approval by the Building Commissioner as provided under IV.C.1.c above. The CMP shall include, at minimum, the following information:
 - a. Construction Scheduling Plan with an approximate construction (and, if applicable, phasing) schedule in order to provide guidance and facilitate inspections. The Applicant shall provide quarterly updates regarding any changes to this Plan.
 - b. Trucking Plan: The CMP shall contain a Trucking Plan specifying (i) planned truck routes, (ii) estimated volumes of any imported and exported materials, (iii) estimated truck trips, and (iv) construction period mitigation measures consistent with the conditions stated herein, including, without limitation, details and locations of crushed stone entrance pads, street sweeping protocols, and dust control measures to be implemented. If requested by the Board, the Applicant shall provide quarterly updates regarding any changes to this Plan.

- c. Construction Administration: The CMP shall specify the hours of construction, deliveries, and trash and debris removal, which shall be in accordance with the conditions contained in this Comprehensive Permit.
 - d. Community Contacts: The CMP shall designate on-site contacts to address neighborhood/community issues during construction, and procedures for regular outreach/coordination with the neighborhood (e.g., project website).
 - e. Noise and Dust Control: The CMP shall provide details regarding any/all noise control and dust control mitigation measures to be taken. Adequate provisions shall be made by the Applicant to control and minimize dust on the Property during construction in accordance with the construction management plan. The Applicant shall keep all portions of any public way used as access/egress to the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project and shall employ water-based street sweeping so as to avoid clouds of dust in and around the public and private ways and surrounding neighborhood.
 - f. Blasting Plan: The CMP shall provide information relative to planned blasting (if any). The Applicant shall be responsible for complying with all legal requirements with respect to blasting.
 - g. Erosion Control: The CMP shall provide details regarding erosion prevention and control, MassDEP Stormwater Management best management practices ("BMPs") to be implemented (e.g., silt sacks, hay bales, silt fences, etc., tree protection plan, drainage infrastructure).
 - h. Utilities: The CMP shall identify and locate all existing underground utilities.
 - i. Construction Staging: The CMP shall identify all staging areas, trailer locations, open storage areas, truck holding locations, delivery locations, re-fueling areas, etc.
 - j. Traffic and Parking: The CMP shall specify on-site parking locations, snow removal procedures, warning signs, and police details (if any). No construction equipment shall be off-loaded or staged on public ways or other adjacent property not under the control of the Applicant unless otherwise approved on a temporary basis by the Police Department. Parking of all vehicles and equipment shall be on site during construction, except that if additional parking is needed offsite, overflow parking in designated offsite locations will be arranged with the Swampscott Department of Public works. All construction equipment must be off-loaded on the Property.
 - k. Fire and Emergency: The CMP shall specify procedures in the event of fire or emergencies.
6. Prior to starting any construction activities authorized under this Decision ("Authorized Activity"), the Applicant and the general contractor shall hold a pre-construction meeting

with the Building Commissioner, the Police Chief, the DPW, and the Fire Dept.

7. Prior to starting any Authorized Activity, the Applicant shall provide to the Building Commissioner:
 - a. the company affiliation, name, address, and business telephone number of the construction superintendent who shall have overall responsibility for construction activities on site;
 - b. proof that street signage is in place to ensure that emergency personnel can locate the site to provide emergency services to protect and secure the site and construction personnel.
8. During construction, at the end of each workday, the Applicant shall cause all erosion control measures to be in place and shall cause all materials and equipment to be secured. Upon completion of all work on site and prior to As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the Board shall be notified in writing of the final disposition of the materials. During construction, the construction area shall be secured against unauthorized entry or vandalism by construction security fencing, and all construction materials shall be stored or stockpiled in a safe manner. Parking of all vehicles and equipment must be on site during construction. Parking, staging or off-loading of vehicles or equipment on public ways is prohibited unless included as a part of the Construction Management Plan.
9. The Applicant shall regularly remove construction trash and debris from the Site in accordance with good construction practice.
10. Blasting, if any, shall be performed in a manner approved by the Fire Department and Building Department so as to prevent injury or property damage to the residents of the Town and proper evidence of insurance shall be provided to the Building Commissioner before blasting begins.
11. No stumps or construction debris shall be buried or disposed of at the Property.
12. The Applicant may locate a temporary construction/marketing trailers on the Site for no more than three (3) years from the date of this Approval for construction and/or marketing needs. No further approval shall be necessary.
13. The lots making up the Site will be reconfigured as follows:
 1. the new Lot 1 (currently: 129 Essex Street, 25 Pitman Road, 35 Pitman and a portion of 21 Elm Place) – will contain the proposed Project building, including parking and other improvements;
 2. the new Lot 2 (currently: a portion of 21 Elm Place) – will contain Burke's Tumbling Gym building and additional project parking and other project improvements; and,

3. the lot at 27 Elm Place will remain as currently configured.

Lot 1 and Lot 2 are shown on Plan C-2 of the Plans of Record; and the lot at 27 Elm Place is shown as Detail "A" on Sheet C-2 of the Plans of Record. In addition to Lot 1, the 40B Project Site includes Project improvements on a portion of Lot 2, as well as improvements on 27 Elm Place which will be used for Project parking to accommodate 35 parking spaces and pedestrian connections for the Project; said improvements are for the benefit of the Project. The Board shall endorse the Final Plan, Sheet C-2, which shall be recorded with the Essex (South District) Registry of Deeds.

14. All site retaining walls four (4) feet or greater in height (if any) shall be designed by a Massachusetts Professional Structural Engineer and shall be equipped with a 4 foot chain link fence for safety purposes.

D. Prior to Building Construction Conditions

1. Prior to the issuance of a Building Permit for any building, the Applicant shall:
 - a. Provide to the Building Commissioner and the Board final architectural plans for said building (the "Final Architectural Plans") prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts to confirm the consistency of such plans with the terms of this Decision. Any comments from the peer review consultant, the Board, or the Building Commissioner must be made in writing within forty-five (45) days after submission by the Applicant, and if no comments or requests for additional information are received within such period then the Final Architectural Plans shall be deemed to be consistent with the terms of this Decision. The Final Architectural Plans shall incorporate all conditions and requirements of permitting agencies having jurisdiction. Appropriate signage shall be shown that includes all interior directional and traffic signage as well as unit/building location signage. The Final Architectural Plans and the Final Site Plans shall collectively be referred to as the "Final Plans" or the "Final Approved Plan" unless otherwise described herein.
 - b. Obtain and file with the Building Commissioner a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
 - c. If required by the Fire Department in writing, provide to the Board and the Building Commissioner a "swept path" site plan proving that all Swampscott fire apparatus, commercial box trucks of typical size (e.g., UPS delivery vans), and garbage trucks will be able to navigate through the driveway and parking lot without crossing over into designated parking spaces, or touching buildings or structures, which plan shall be reviewed and approved for conformity with the state Fire Prevention Code by the State Fire Marshall's office.
 - d. Obtain all necessary electrical, plumbing, and other permits required to begin construction on the building for which the building permit is sought.
 - e. Submit full and detailed landscaping plans duly sealed and signed by a Landscape

Architect registered in the Commonwealth of Massachusetts that show suitable on-site landscaping and screenings, shade trees as well as the type and number, size and location of all proposed landscaping materials.

- f. Pay to the Town the required water and sewer connection fees and Infiltration/Inflow ("I/I") mitigation fees, if any, in accordance with the current fee schedule.
 - g. Submit a sign application to the Building Commissioner and include location and details of every sign for the Board's review. The Applicant must install sprinklers and fire alarms to the extent and in the manner required by the state building code and by Massachusetts law. The Applicant shall submit final fire alarm/sprinkler plans to the Fire Department for review and approval prior to the issuance of a Building Permit for any building.
 - h. The Applicant shall equip each unit with water saving plumbing fixtures in every bathroom, kitchen, and laundry area, and all underground water pipes shall have water-tight joints. The plumbing fixtures shall be documented on the Final Architectural Plans.
2. The Applicant shall have obtained a Building Permit prior to the start of construction of the building.

E. Prior to Issuance of First Certificate of Occupancy Conditions

The following conditions must be met before the first Certificate of Occupancy is issued:

1. To the extent that landscaping is not completed for the Project prior to the issuance of the first Certificate of Occupancy, the Applicant shall provide the Town with a cash or other surety as decided upon by the Board (including a bond, a letter of credit, and/or a tri-party agreement) among the Applicant, the Board, and the construction lender, in an amount to be determined by the Board in consultation with the Board's peer review consultant based upon the Applicant's reasonable estimate of the costs to complete such landscaping work, which such cash or surety shall be released to Applicant upon completion of same.
2. Install the gravel and binder course for the entire driveway and parking area shown on the Final Approved Plans and install all other Infrastructure shown on the Final Approved Plans, as approved by the Building Commissioner.
3. Obtain acceptance from the Swampscott Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.
4. Applicant shall obtain approval from the Town of Swampscott Postmaster of the centralized location for mailboxes and parcel boxes.

5. The Applicant shall provide a one (1)-year guarantee on all new plant material such that the Applicant will replace any tree or shrub that dies within this time period at the next appropriate time suitable for planting.

F. Prior to Issuance of Final Certificate of Occupancy Conditions

The following conditions must be met before the final Certificate of Occupancy is issued:

1. All utilities within the Property shall be installed underground (with the exception of junction boxes, hydrants, transformers, and similar appurtenances in addition to other utility improvements required to otherwise be installed by other utility providers) by the Applicant with using methods standard to those installations. Utilities shall be defined as electric service lines, gas service, telephone lines, water and sewer service lines, cable TV lines, municipal conduit, and the like.
2. The interior and exterior of all buildings and structures shall be constructed as represented in the Final Architectural Plans.
3. The Project shall be serviced by and connected to the municipal water and municipal sewer systems, and this Decision shall constitute the necessary permission for Applicant to connect to said municipal systems, subject to determination by the Department of Public Works that the applicable technical requirements have been satisfied, which such determination shall not be unreasonably withheld or delayed.
4. All water, sewer and stormwater infrastructure and, subject to Condition IV.E.1, the installation of final course of pavement for the site driveways and parking areas, shall be in place and fully operational.
5. All exterior lighting for the Project shall be installed as shown on the Final Site Plans.
6. All utility work and other roadwork within any public right of way shall be performed and conducted in conformance with the regulations of the Town, but this Comprehensive Permit shall constitute the necessary street opening permit. Contractors shall be duly licensed as required by the Town of Swampscott. All such work shall be performed in accordance with current engineering and construction standards.
7. The fire hydrant(s) shall be installed as shown on the Final Site Plans.
8. The Applicant shall implement the traffic, pedestrian safety, civil, fire safety, and other measures described in Exhibits C, D, E and F unless otherwise described therein.

G. Post Occupancy Conditions

1. Within ninety (90) days after the issuance of a Final Certificate of Occupancy, the Applicant shall submit to the Building Commissioner As-Built Plans for all infrastructure and landscaping improvements including an electronic format acceptable to the Building Commissioner. The Applicant shall also provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the As-Built Project has been constructed in compliance with the Final Approved Plans in all material respects, or noting where there are differences.
2. The Applicant shall provide on-site property management during normal week-day business hours as well as a telephone number for tenants to contact management that is available by phone 24/7. In the event the Applicant engages a management company, the Applicant shall post the name and telephone number of the management company at the Property. The Applicant shall construct a bus shelter as shown on the Final Site Plans, and after the Building Commissioner confirms the structure has been so constructed, the Town and/or the MBTA shall be responsible for maintenance of the bus shelter..
3. Fertilizer, pesticide, and herbicide use shall be minimized to the extent consistent with good landscape maintenance practice.
4. All catch basins shall be cleaned at the end of construction. Thereafter, the Applicant and/or Applicant's successor shall be responsible for maintaining the site's storm-water management system in accordance with the Operations and Maintenance Plan described above.
5. The Applicant shall be permanently responsible for operation and maintenance of the following at the Project and on the Project locus which shall remain private unless otherwise described in this Decision:
 - i. All internal roadways, walkways, and parking areas;
 - ii. Snow removal;
 - iii. Landscaping and landscape maintenance;
 - iv. Trash removal;
 - v. Water systems including domestic use and fire protection, including hydrants;
 - vi. Wastewater infrastructure;
 - vii. Stormwater Management System including underground facility; and
 - viii. Exterior site lighting.
6. Any Permit granted hereunder is granted to the Applicant and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the Board, as required by 760 CMR 56.05(12)(b).

7. The Applicant shall protect adjoining properties from damage due to construction attributable to the project site including public utilities, sewer, water and storm drainage systems and other utilities from the project site. Applicant shall repair any damage immediately at no cost to the Town or the abutter, if found liable.
8. The Applicant shall be responsible for accomplishing the required construction work on the project in such a manner as to effectively minimize and control any water pollution, which might be caused by soil erosion from the Project. It is intended that these features be maintained in appropriate functional condition from initial construction stages to final completion of the Project. The contractor shall be responsible for conformance with local, state, and federal soil erosion and siltation controls.
9. To extent permitted by law, there shall be no conversion of interior space into additional bedrooms. Moreover, the uses and structures on Lot 2 and 27 Elm Place and approvals therefor (collectively, the "Existing Approvals") are hereby modified so as to allow the uses and structures on Lot 2 and 27 Elm Place to lawfully continue to exist and to co-exist with the proposed Project uses and related Project improvements at the Property, all as shown on the Site Plans and as allowed and conditioned in the comprehensive permit herein, including the Applicant's duty to maintain the parking spaces for the business at 27 Elm Place.
10. In the event that the Town of Swampscott intends to construct an extension of the Rail Trail (for bicycle and pedestrian use only) on, above or below the MBTA tracks and connecting to the Right of Way adjacent to the Project, and the Town (i) elects to use of a portion of the Project locus designated as the trail easement area herein as part of the Rail Trail, (ii) the portion of the Project is included in the design of the Rail Trail, and (iii) the Town has been informed by the Massachusetts Department of Transportation (MassDOT) to obtain the easement rights in the Project then the Applicant shall grant a permanent trail easement to the Town of Swampscott (the "Trail Easement"), and temporary construction easements, if applicable, at the Town's written request (which easements may be subject to Town Meeting authorization and will be accepted by the Select Board, as may be required by law), the terms and provisions of which are as follows:
 - i. If the Applicant or any entity affiliated with the Applicant acquires the Property, the Applicant shall, at the Town's written request, grant an approximate 25 foot wide public recreational trail easement to the Town consistent with the terms of this Section IV.G.11. and at the approximate location shown on Exhibit G attached hereto, and temporary construction easements as may be shown on the Rail Trail MassDOT design plans.
 - ii. The sole use of the easement shall be for a Rail Trail and no other use shall be permitted. The Town will agree that use of the Rail Trail on the Applicant's Property will

be consistent with the use of other portions of the rail trail located throughout the rest of the Town and that no vehicles will be permitted to use the Rail Trail, except for vehicles used for the purpose of constructing, repairing, maintaining, replacing the Rail Trail and/or related improvements and by emergency personnel.

iii. The exact location of the Trail Easement, and any temporary construction easements, will be determined by the parties and MassDOT, but will be located as close to the edge of the Property as feasible so as not to interfere unreasonably with the Project, provided that such location allows the Rail Trail to connect to the remainder of the rail trail that is not located on the Property. The approximate location is shown on Exhibit G attached hereto (the "Trail Easement Area").

iv. The Town shall be responsible for the design and construction of the Rail Trail located within the Trail Easement Area, including the construction of an underpass that will be required to connect the Rail Trail located on the Property with the portion of the rail trail located on abutting property. All construction costs shall be the responsibility of the Town.

v. Once the Town accepts the easement, the Town shall be responsible for the ongoing maintenance and repair of the Rail Trail, at the Town's expense, in the same manner in which the Town maintains the rest of the rail trail.

vi. The parties will permit the public to use the Trail Easement Area for recreational purposes free of charge. The liability of the Town and the Applicant is subject to the limitations set forth in GL c. 21, §17C. The Town will maintain insurance during the construction and repair of the rail trail on the Property and shall hold harmless the Applicant for injury or damage caused by the Town during said construction, except to the extent arising out of or caused by the Applicant and the Applicant's agents, employees, representatives and others for whom the Applicant is responsible.

11. The Applicant agrees to grant a sidewalk and parking easement (the "Sidewalk and Parking Easement") to the Town of Swampscott at the Town's written request in the approximate areas shown on the Plan, which easement areas are described as follows:

i. a public parking easement reserving six (6) of the eleven (11) parking spaces proposed along Pitman Road shall be made available for public use by non-Project Town residents (said six (6) spaces, the "Parking Easement Area"), leaving five (5) of the remaining eleven (11) parking spaces for the exclusive use of the Project as shown on the plan in attached hereto as Exhibit H; and

ii. a 5-foot wide area depicted as "5' Proposed Sidewalk Easement B" on Exhibit H located parallel to Pitman Road but located on the Property and extending from Essex Road southerly to the "Delivery/Maneuvering Area;" on Exhibit H and

iii. segments of the Property, as shown in Exhibit H, located along Elm Place and extending from near Essex Road and extending southerly to the point where the "Proposed 5' Sidewalk Easement "A" on Elm Place starts ((ii) and (iii), collectively, the "Sidewalk Easement Area"); and further provided that:

(a) the exact location of the Sidewalk Easement Area and the Parking Easement Area (collectively, the "Easement Areas") will be determined by the parties at the time the Town requests the Sidewalk and Parking Easement from the Applicant and shall be substantially comparable to the areas shown on Exhibits B and H;

(b) the sole use of the Sidewalk Easement Area described in the Sidewalk and Parking Easement shall be for public sidewalk use, the sole use of the Parking Easement Area on the Property along Pitman Road shall be for public parking, no other use shall be permitted, and the form of Sidewalk and Parking Easement shall be reasonably acceptable to the Town and the Applicant;

(c) the Sidewalk and Parking Easement is subject to the approval of the Swampscott Town Meeting and will be accepted by the Select Board;

(d) Since the use of the Easement Areas is related to the use of the Rail Trail, the parties acknowledge that the liability of the parties is subject to the limitations set forth in GL c. 21C, §17. The Town will maintain insurance during the construction and repair of the Easement Areas and shall hold harmless the Applicant for injury or damage caused during said construction, except to the extent arising out of or caused by the Applicant and the agents, employees, representatives and other for whom the Applicant is responsible; and,

(e) once the Town has accepted the easements, the Town shall be responsible for all ongoing maintenance and repair of the Easement Areas at the Town's expense and agrees they shall be maintained in a manner consistent with how the Town customarily maintains sidewalks and parking spaces in the Town of Swampscott.

12. Except for reasonably sized windrows along pavement edges, snow shall be stored within the areas of the Property designated on the Final Approved Plans, and shall not be stored anywhere on the interior roadways, in a manner that maintains Fire

Department access at all times. To the extent snowfall exceeds the capacity of the designated snow storage on the site, the Applicant shall truck the excess snow off-site.

13. If any part of this Decision is for any reason held invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of any other portion of this Decision.

VI. WAIVERS:

The Applicant shall comply with the Town of Swampscott Zoning Bylaw and other local bylaws and regulations, except as expressly provided in the list of waivers attached hereto as Exhibit I. Any waiver not specifically granted is hereby denied.

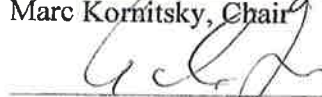
RECORD OF VOTE

The Board of Appeals voted 4-0 at its public meeting on June 13, 2022, to grant a Comprehensive Permit subject to the above-stated Conditions, with this Decision as attested by the signatures below.

Members in favor:



Marc Kornitsky, Chair



Dan Doherty, Vice Chair



Brad Croft, Member



Heather Roman, Member

Dated: June 16, 2022

Filed with Town Clerk on June 16, 2022, 2022



Town Clerk

Notice: Appeals, if any, shall be made pursuant to Massachusetts General Laws, Chapter 40A, § 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Swampscott, Massachusetts.

EXHIBIT A

Site and Civil Engineering Plans prepared by Hancock Associates entitled "Elm Place" dated August 12, 2021 and revised through May 16, 2022 unless otherwise described below; and Architectural Plans prepared by The Architectural Team, Inc. entitled "Elm Place" dated August 12, 2021 and revised through March 28, 2022:

SITE AND CIVIL	
	EXISTING CONDITIONS PLAN OF LAND IN SWAMPSCOTT, MA, dated July 10, 2020 (Revised March 28, 2022)
C-2	PLAN OF LAND, dated April 11, 2022 (Revised May 20, 2022)
C-3	LAYOUT AND MATERIALS PLAN
C-4	GRADIND AND DRAINAGE PLAN
C-5	UTILITIES PLAN
L-1	LANDSCAPE PLAN, dated December 29, 2021 (Revised May 16, 2022)
C-6	DEMOLITION AND EROSION CONTROL PLAN
C-8	EMERGENCY VEHICLE SWEPT PATH ANALYSIS PLAN
C-9	PARKING EASEMENT EXHIBIT PLAN
C-10	PHOTOMETRIC PLAN
ARCHITECTURAL	
A-1.01	OVERALL FLOOR PLANS - LEVEL 1
A-1.02	OVERALL FLOOR PLANS - LEVEL 2
A-1.03	OVERALL FLOOR PLANS - LEVEL 3
A-1.04	OVERALL FLOOR PLANS - LEVEL 4
A-1.05	OVERALL FLOOR PLANS - LEVEL 5
A-1.06	OVERALL FLOOR PLANS - ROOF PLAN
A-4.01	OVERALL EXTERIOR ELEVATIONS
A-4.02	OVERALL EXTERIOR ELEVATIONS

EXHIBIT B

OTHER ITEMS SUBMITTED TO ZBA THROUGHOUT THE PEER REVIEW PROCESS

1. WorldTech Peer Review Letter dated October 25, 2021
2. Vanasse & Associates Response to WorldTech Peer Review Letter dated November 22, 2021
3. WorldTech Parking and Site Plan Review Letter dated January 7, 2022
4. Development Team Response to WorldTech Letter dated January 11, 2022
5. Vanasse & Associates Transportation Improvement Program Summary dated February 8, 2022
6. WorldTech Final Review Letter dated February 11, 2022
7. Davis Square Preliminary Architectural Review Letter dated February 14, 2022
8. TAT Response to Preliminary Architectural Review Letter and Supporting Materials dated March 8, 2022
9. VM Consulting Initial Peer Review Letter dated January 11, 2022
10. VM Consulting Peer Review Letter dated February 11, 2022
11. Hancock Associates Response to Peer Review Letter dated March 10, 2022
12. WorldTech Memo dated March 22, 2022
13. VM Consulting Peer Review Letter dated March 30, 2022
14. MBTA letter about Rail Trail options dated April 12, 2022
15. Hancock Response Letter to Peer Reviewer and comments from the ZBA hearing of 4.12.22, dated 4.20.22, including Stormwater Report In Support of Comprehensive Permit Filing (January, 2021) (Revised April, 2022); Sewer Exhibit Plan of Land, dated April 19, 2022, prepared by Hancock Associates
16. Hancock Response Letter to VM Consulting, dated April 26, 2022;
17. VM Consulting Peer Review Letter dated May 2, 2022
18. VM Final Comment Response Table, Stormwater Redesign Comment Response Table, and Exhibit D Conditions dated May 4, 2022
19. Elm Place Final Summary Architecture Peer Review letter from Davis Square dated May 2, 2022
20. TAT Final Response Matrix dated May 5, 2022
21. Freeman Law Group Memorandum to Zoning Board of Appeals, dated May 26, 2022.

EXHIBIT C

VANASSE & ASSOCIATES PEDESTRIAN & TRAFFIC SAFETY CONDITIONS

The Applicant shall perform the following conditions to the reasonable specifications set by the Department of Public Works.

If the Department of Public Works does not work with the Applicant and provide approval on formally submitted plans within 60 days for any of the conditions below, then the Applicant will no longer be held to meeting the condition.

1. Design and implement an optimal traffic signaling timing, phasing and coordination plan for the intersections of Essex Street at Burrill Street and Essex Street at Burpee Lane, to include a review of vehicle clearance intervals and pedestrian crossing times.
2. Install "Do Not Block" signs and accompanying pavement markings on Essex Street at the intersections of Essex Street at Hillcrest Circle and Essex Street at Essex Terrace.
3. Install an "Intersection Ahead" warning sign along Essex Street northeast of Elm Place (south) to advise motorists of the approaching intersection and the potential for vehicles to be entering the traveled-way.
4. Install a marked STOP-line on the Elm Place (south) approach to Essex Street and a double-yellow centerline along Elm Place for a minimum distance of 50-feet from the STOP-line.

The Applicant shall comply with the following Conditions prior to the issuance of a final certificate of occupancy.

5. Transportation Demand Management (TDM) – Implement a Transportation Demand Management (TDM) program inclusive of the following measures:
 - a. A transportation coordinator will be designated for the Project to coordinate the elements of the TDM program;
 - b. Information regarding public transportation services, maps, schedules and fare information will be posted in a central location and/or otherwise made available to residents;
 - c. A "welcome packet" will be provided to residents detailing available public transportation services, bicycle and walking alternatives, and commuter options available;
 - d. Work-at-home workspaces will be provided to support telecommuting by residents of the Project;
 - e. Pedestrian accommodations will be incorporated into the Project and consist of connections to existing sidewalks and ADA compliant wheelchair ramps at all pedestrian crossings that are to be constructed or modified as a part of the Project;
 - f. An internal mail room will be provided within the building; and
 - g. Secure bicycle parking will be provided within the Project site.

Unless otherwise agreed by the Director of Public Works in his sole discretion, the timing for completion of the work described in Exhibit C shall be as provided under Condition IV.F.8.

EXHIBIT D
VM CONSULTING SITE AND CIVIL CONDITIONS

The Applicant will incorporate the following requirements as a part of the Site Plans in accordance with the review process described under Section IV.C.1.a. of the Decision, and shall perform the obligations set forth below prior to commencement of Authorized Activities (construction). References to the numbered comments below correspond to the numbered comment responses described in the VMCE Response Matrix, revised through 5.3.22.

Sewer Design Comment Conditions:

Comment 1b.

The Town shall require the following:

1. Applicant shall provide CCTV inspection of the Burrill Street sewer between Doherty Circle and Railroad Ave. (approximately 568');
2. The Director of Public Works shall review the CCTV inspection; and
3. If the Director of Public Works determines from this CCTV review that there is groundwater infiltration, then the Applicant, with the Department of Public Works Department assistance, shall perform a limited amount of sewer rehabilitation (i.e. slip lining or similar process) of the portion of sewer which is affected by groundwater infiltration.

Comment 3.

The Final Plans shall include sewer profiles and stationing with details adhering to Town standards.

Comment 4.

The Final Plans shall include sewer details and technical specifications for sewer infrastructure, including sewer manhole, pipe trench construction, sewer services, and sewer cleanouts that adhere to the Town standards.

Comment 10.

The Final Plans shall include a detail to show the proposed three-way connection of the discharge from the oil/grease separators / catch basins to the new 8-inch sewer service.

Water Design Comment Conditions:

Comment 2.

The Final Plans shall include water infrastructure details and technical specifications for trench, hydrant, gate valve, water service, bends, push-on and mechanical joint restraints, and thrust blocks that adhere to the Town standards.

Comment 3.

The Final Plans shall include stationing in the water main design.

Comment 8.

The Final Plans shall include field-lok gasket push-on joint restraints and Mega-lug mechanical joint restraints.

Comment 9.

The Final Plans shall include a detail of the connection into the 8-inch main in Essex Street, including elevations and intersecting utilities.

Comment 10.

The Final Plans shall include a detail for cutting and capping existing water services. The Final Plans should indicate that the contractor must shut off water services at the corporation and be inspected by the Town.

Stormwater Design Comment Conditions:

Comment 5.

The Final Plans shall include a technical specification for the Overflow Control Structure (OCS).

Comment 10.

The Final Plans shall include details and technical specifications for drainage infrastructure, including trench construction, drain manhole and catch basin.

Comment 11.

The Final Plans shall include details concerning how the 15-inch drain from Stormceptor will be accessed for service through manholes, and demonstrating that the pipe will have sufficient cover for traffic load using H-20 loading over the pipe.

Comment 12.

The Final Plans shall incorporate smooth flow transitions in the stormwater system (wyes) instead of 90-degree pipe intersections at manholes (tees) or equivalent system customarily approved by the Director of Public Works, all in accordance with industry standards and manufacturer recommendations.

Comment 3a.

The Final Plans shall provide reasoning as to why the weir elevation was not raised, and provide confirmation of the volume per chamber for the Stormtech SC-160 of 8.89 cubic feet.

Comment 4a.

The Final Plans shall include a revision to detail "DMH-C CONNECTION TO ISOLATOR" to show Isolator Row elevation of 31.54, which is a foot lower than the inlet elevation from the catch basin of elevation 32.54.

Comment 8a.

The Final Plans shall include catch basins with 4' deep sumps, and include a detail for 4' deep sump catch basin.

EXHIBIT E
DAVIS SQUARE ARCHITECTS ARCHITECTURAL CONDITIONS

The following Conditions are from the Final Summary Architectural Peer Review letter dated May 2, 2022. The Applicant shall comply with the following Conditions prior to the issuance of a final certificate of occupancy.

1. Monitor the utilization of the interior and exterior bicycle storage, and the bicycle repair station throughout the first year of occupancy and re-assess if modifications need to be made to accommodate more bicycle parking.
2. Construct building in such a way to accommodate a rail trail tunnel option, and set aside the 25 foot rail trail easement as outlined above in Section G.9.

EXHIBIT F

FIRE DEPARTMENT FIRE PREVENTION MEMO CONDITIONS

The following Conditions are from the Fire Prevention Memo dated November 3, 2021. The Applicant shall comply with the following Conditions prior to the issuance of a final certificate of occupancy.

1. Fire Protection plans must be submitted to the Fire Department for approval of proposed locations. Plans shall also indicate location of Bidirectional Amplifiers and places of refuge.
2. Fire Alarm system shall include monitored heat detection devices in each unit. Sprinkler system to include standpipe to facilitate firefighting operations.
3. Fire Department connection must be easily accessed & not blocked by vegetation. Contractors shall be required to obtain permits from the fire department.
4. Fire Department Interior access to roof in all stairways.
5. Fire Department requests the Fire Alarm system be connected to a Radio Master Box. Knox Key Boxes locations(s) shall be submitted for approval.

EXHIBIT G
RAIL TRAIL EASEMENT AREA

ESSEX STREET

PITMAN ROAD
(PUBLIC - 30' WIDE)

DOHERTY
CIRCLE

RAIL TRAIL
EASEMENT

MARKS PARKING LOT
W 10' WIDE DRIVEWAY
100' FROM 1/4" SCALE

tat

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F 617.884.4329
architecturalteam.com

HANCOCK ASSOCIATES

185 CENTRE STREET
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FAX (978) 774-7816
WWW.HANCOCKASSOCIATES.COM

Drawn: MRG

Checked: DLC

Scale: NTS

RAIL TRAIL EASEMENT EXHIBIT PLAN

1 Elm Place, Swampscott,
MA 01907

Project Number:
23892 (TAT #19171)

Date:
5/23/22

IDEWALK EASEMENT AREA

EXHIBIT C

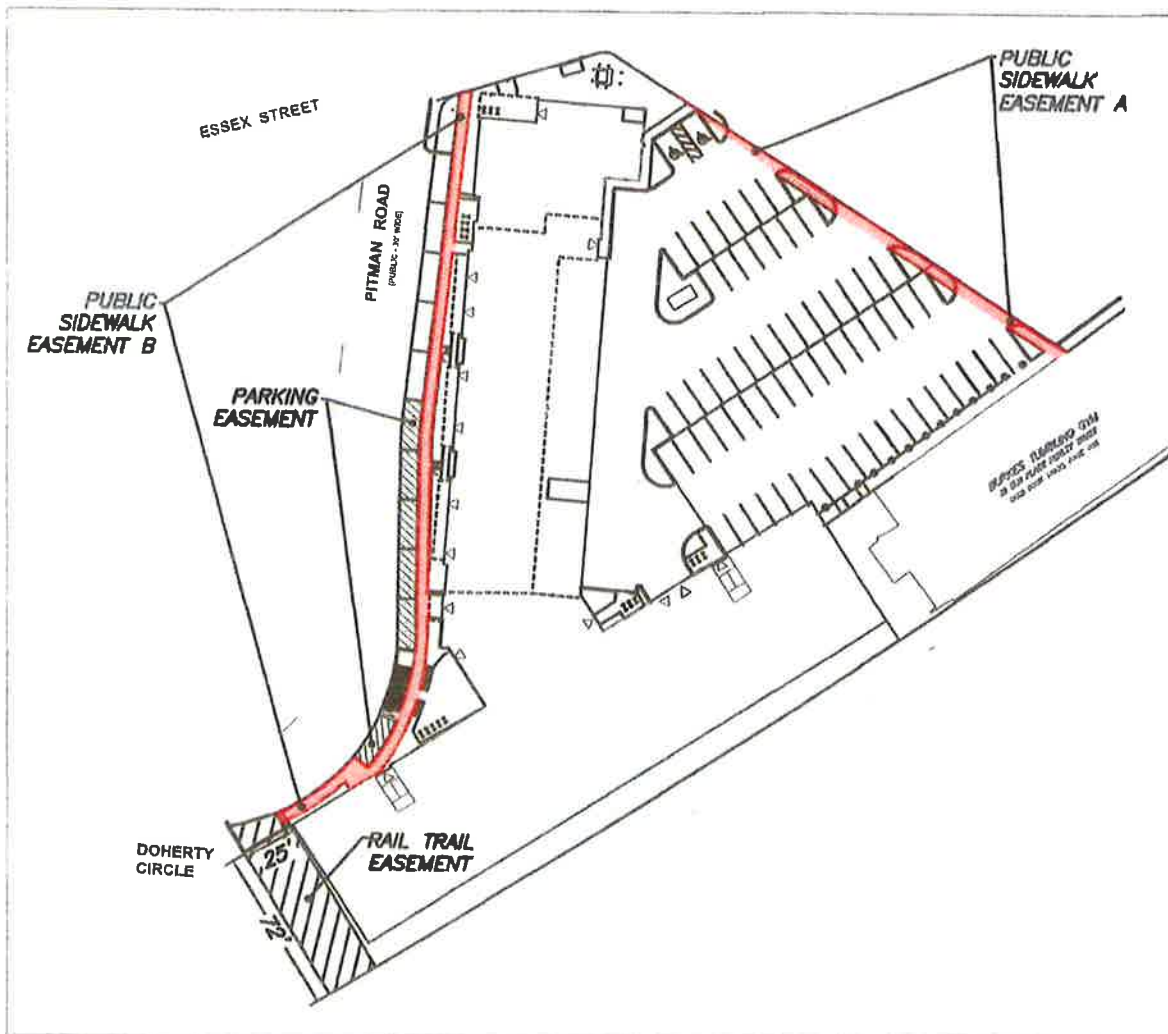


EXHIBIT I
WAIVERS

VOTED: Pursuant to 760 CMR 56.05(10), this Comprehensive Permit shall be a master permit which shall subsume all local permits and approvals normally issued by Local Boards, Commissions and Departments.

VOTED: To grant the following waivers from local bylaws and regulations noting that any waiver not specifically granted is hereby denied:

SEE SEPARATE SHEETS FOR WAIVERS

LIST OF WAIVERS

TOWN OF SWAMPSCOTT GENERAL BYLAWS, AS AMENDED THROUGH May 17, 2021 (THE "SWAMPSCOTT GENERAL BYLAWS")				
CODE/REG.	SECTION	DESCRIPTION	REQUIRED	PROPOSED
ARTICLE V - Streets and Sidewalks	SECTION 2	Excavation of a Public Street or Way	Written permission required from the Director of Public Works.	Waived. Excavation work to be approved by the ZBA as part of the Comprehensive Permit Decision.
	SECTION 4	Obstructions on Public Streets and Sidewalks	Select Board approved required for obstructing a public street or sidewalk. Written permission required from the Director of Public Works as designee.	Waived. Any temporary obstructions to be approved by the ZBA as part of the Comprehensive Permit Decision.
ARTICLE IX - Uses of Land	SECTION 2	Removal of Soil, Loam, Sand or Gravel	Removal of soil, loam, sand or gravel from land in any of the residential districts is prohibited, except for excavation for construction or alteration of the residential property or, for the removal of < 600 cubic yards, and upon Building Commissioner approval.	Waived. Any required material removal of soil, loam, sand or gravel to be approved by the ZBA as part of the Comprehensive Permit Decision.
	SECTION 4, and RULES & REGULATIONS of the HISTORIC DISTRICT COMMISSION	The Preservation of Historically Significant Buildings	Historical Commission to advise Building Commissioner regarding demolition.	Waived. Approval to raze all existing structures on the Premises, to the extent defined as a "SIGNIFICANT BUILDING OR STRUCTURE," to be issued by the ZBA as part of the Comprehensive Permit Decision.

*Elm Place
Swampscott Housing Limited Partnership*

ARTICLE XIII – EARTH REMOVAL	ALL SECTIONS (1-14)	Earth Removal	The removal of more than 600 cubic yards of earth from any parcel of land shall, except as herein provided, be allowed only in accordance with a written permit issued by the Board of Selectmen.	Waived. Comprehensive Permit Decision shall provide all local permits per M.G.L. Chapter 40B. Any required earth removal to be approved by the ZBA as part of the Comprehensive Permit Decision.
ARTICLE XIX – Construction and Post- Construction Stormwater Management & Town of Swampscott Rules and Regulations for Stormwater Management and Erosion Control	ALL SECTIONS (1-10)	Stormwater Management	Stormwater Management Permit; Town of Swampscott Construction and Post-Construction Stormwater Management Bylaw and accompanying Town of Swampscott Rules and Regulations for Stormwater Management and Erosion Control and from the requirement of action by the Director of the Department of Public Works as Enforcement Authority, and associated filing fees.	Waived. Stormwater Management to be in compliance with MADEP Stormwater Management Policy as well as the requirements of the US EPA Construction General Permit for Massachusetts, all as provided in the Comprehensive Permit Decision.
ARTICLE XXVI – Trees	ALL SECTIONS	Tree Bylaw	A "Public Shade Tree" or "Town Tree" may not be trimmed, pruned, cut or removed by any Person unless and until the Tree Warden issues a written approval pursuant to this bylaw.	Waived. Any required work involving a Public Shade Tree or Town Tree to be approved by the ZBA as part of the Comprehensive Permit Decision.

*Elm Place
Swampscott Housing Limited Partnership*

ARTICLE II. USE, DIMENSIONAL AND TIMING REGULATIONS.	2.2.1.0.	General Use Requirements.	No structure shall be erected or used or land used except as set forth in Section 2.2.3.0., "Table of Principal Uses", or as otherwise provided in this By-Law or by statute. Uses not expressly provided for herein are prohibited.	Waived. Waived. To allow use of the Property for no less than a total of 114 multifamily rental units in a single building, and accessory uses, including without limitation, utilities, generator, and management/leasing office, resident indoor and outdoor common area spaces, related customary accessory uses, parking, access, rights of commercial access onto Project Site, water and sewer and stormwater management improvements and appurtenances, signs, the removal and movement of earth necessary to allow for the construction of Project improvements, and other appurtenant uses customary to such residential uses, including but not limited to, a bus shelter, covered bicycle facilities, and fences, all as may be depicted in the Final Plans. Also allow the use of a temporary construction/ marketing trailer(s) as provided under the Comprehensive Permit Decision.
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	2.2.0.0, 2.2.3.0, 2.2.4.0, 2.2.5.0.	Table of Principal Uses; Accessory Uses	The Project is located within 2 districts: Residence A-4 District (A4 District), and Business B-2 District (B2 District), as shown on the Zoning Map. Within the A4 District, Multi-family dwellings containing more than 8 dwelling units is prohibited, and within the B2 District, is allowed only by ZBA Special Permit.**	Waived. To allow use of the Property for no less than a total of 114 multifamily rental units in a single building, and accessory uses, including without limitation, utilities, generator, and management/leasing office, resident indoor and outdoor common area spaces, related customary accessory uses, parking, access, rights of commercial access onto Project Site, water and sewer and stormwater management improvements and appurtenances, signs, the removal and movement of earth necessary to allow for the construction of Project Improvements, and other appurtenant uses customary to such residential uses, including but not limited to, a bus shelter, covered bicycle facilities, and fences, all as may be depicted in the Final Plans. Also allow the use of a temporary construction/ marketing trailer(s) as provided under the Comprehensive Permit Decision.
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	2.2.7.0, 2.2.7.1., 2.2.7.2.	Improved Lots - Nonconforming Uses and Structures	Lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized. ZBA may grant a special permit to change or extend a nonconforming use, or to reconstruct, extend, alter, or change a nonconforming structure.**	Waived. Allow for proposed Project parking uses and improvements on Lot 2 and 27 Elm Place as shown on Final Plans. The Existing Approvals (as defined in the Comprehensive Permit Decision) on Lot 2 and 27 Elm Place are hereby modified to allow the building and related building uses and parking on such real property to lawfully continue and exist and to co-exist with the Project uses on the Property (including the groundleased premises), all as shown on the Final Plans and described in the Comprehensive Permit Decision
	2.3.1.0.	General Dimensional Requirements	No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless otherwise provided in this By-Law or by statute.	Waived. Allow for proposed Project as shown on the Final Plans.
	2.3.2.0. 2.3.6.0	Table of Dimensional Requirements, and Exhibit A; Dimensional Special Permit.	Various dimensional requirements in the A4 and B-2 Districts. The ZBA may grant a special permit to reduce otherwise applicable requirements for yard, height, open space, or lot coverage restrictions upon making specific findings. See Note 1.	Waived, subject to allowing for proposed Project as shown on the Final Plans and detailed in the Waivers below.

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			Min. Lot Area (s.f.) --A-4 10,000 s.f. --B-2 10,000 s.f.	Note: Entire lot includes 63,080 (of which 21,580 s.f. is within A-4 District, and 41,500 s.f. is within B-2 District) Complies Complies
			Min. Lot Frontage: --A-4 80 Feet --B-2 80 Feet	A-4: >80' Feet Complies B-2: 82 >80' Feet Complies
			Max. Stories/Building Height --A-4 2.5/35 Feet --B-2 40 Feet plus 2 feet above the Max. Building height	Waived. Building stories and height as depicted on Plans. A-4 3-5 stories/72 Feet Max. B-2: 5 stories/72 Feet Max. including garage
			Min. Open Space (%) --A-4 25% --B-2 15%	Allow overall Site Open Space on Lot to be 13% 12% -- Waived for portion of site within A-4 District 14% Waived for portion of site within B-2 District.
			Min. Front Yard (ft) --A-4 20 Feet --B-2 None Required	Waived for setbacks for A-4 District Only: -From Face of Building = 12.5 Feet -From Edge of Overhang = 2.4 Feet -From Overhang Support Column = 3.9 Feet N/A

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			Min. Side Yard (ft) --A-4 7.5 Feet --B-2 None Required, but 30 feet if abuts a residential district under Section 2.3.8.6.	A-4: N/A B-2: 12.5 Waived
			Min. Rear Yard (ft) --A-4 20 Feet --B-2 10 Feet, but 30 feet if abuts a residential district under Section 2.3.8.7.	A-4: N/A B-2: Waived 10.2 feet
			Max. Building Coverage (% of Lot) --A-4 30% --B-2 30%	Entire Lot = 55% A-4: 50% -- Waived for portion of Lot within A-4 District B-2: 56% -- Waived for portion of Lot within B-2 District
2.3.8.0 (Accessory Structures)	2.3.8.0 2.3.8.1 2.3.8.2 2.3.8.5 2.3.8.6 2.3.8.7 2.3.8.8		Required open yards, projections, for accessory structures such as fences, bus shelter, and covered bicycle facilities.	Waived, and allow for accessory structure placement in the yards on Project lot as proposed and as shown on the Final Plans.

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ARTICLE III. GENERAL REGULATIONS.	3.1.1.0 3.1.1.2 3.1.1.3	General Off-Street Parking Requirements	Minimum parking requirements for the new demand without counting existing parking necessary for existing uses to meet these requirements. Any parking or loading requirement may be reduced upon the issuance of a ZBA special permit if ZBA finds the reduction is not inconsistent with public health and safety, or that the reduction promotes a public benefit, and that the requirements set forth in Section 5.3.0.0. are fulfilled. See Note 1.	Waived. Allow for proposed Project parking as shown on the Final Plans and detailed in the waivers below.
	3.1.2.0	Number of Parking Spaces.	Use Group A-MF requires 1.5 parking spaces per residential unit, or a total of 180 parking spaces.	Waived. Allow for a total of 131 parking spaces, or an average of 1.15 parking spaces per unit) in locations as shown on Final Plans.
	3.1.2.3	Parking Space Location	Required spaces may be provided on a nearby lot in the same district, and distance between such parking lot and the use shall not exceed two hundred (200) feet.	Waived. Allow for proposed parking and related access on Lot 1, Lot 2 and on 27 Elm Place as shown on the Final Plans.
	3.1.3.0	Size of Parking Spaces.	Parking space shall be 9x18 Feet except that up to 25% can be reduced to 8.5 x 16 Feet	Waived. Allow 8x22 Feet parking for parallel parking spaces as shown on Final Plans.
	3.1.5.0, 3.1.5.1, 3.1.5.2, 3.1.5.4 and 3.1.5.5	Parking Lot Design	Snow storage, lighting, rails, landscaping and parking setbacks.	Waived. Allow for proposed Project as shown on Final Plans.

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	3.3.0.0, 3.3.1.1., 3.3.1.2., 3.3.1.3, and 3.3.1.4..	Landscaping and Screening Requirements.	Landscaping requirements for parking lots with 6 or more parking spaces, and screening requirements between residential and nonresidential uses; waivers from requirements.	Waived. Landscaping and screening to be provided as shown on the Final Plans.
	3.4.2.0,	Lighting.	All exterior lighting shall be shielded so as not to cast light directly on adjacent streets or properties.	Waived. Comprehensive Permit Decision shall provide for lighting as provided in the photometric plan filed by the Applicant.
ARTICLE IV. SPECIAL REGULATIONS	4.4.2.0	Access to Commercial or Industrial Buildings.	No driveway or other means of access for vehicles other than accepted streets shall be maintained or used in the Residence A1, A2, A3, or A4 Districts for the servicing of a commercial or industrial building in the Business B1, B2, B-3, B-4, or I Districts.	Waived. Allow for access within A-4 and B-2 Districts as shown on the Final Plans.
	4.8.0.0.	Inclusionary Housing Regulations	Requires set-aside of 10% of the units as affordable qualifying for the Subsidized Housing Inventory, along with other requirements, for a project resulting in a net increase of ten (10) or more dwelling units.	Waived. Project to comply with the affordability requirements of Chapter 40B as described in the Comprehensive Permit Decision.
ARTICLE V. ADMINISTRATION AND PROCEDURES.	5.1.1.0.	Permits.	Buildings, structures or signs may not be erected or changed in use and land may not be substantially altered or changed with regard to principal use without written certification by the Building Commissioner that such action complies with applicable zoning.	Waived. Building Commissioner may enforce the Zoning Bylaw pursuant to the Comprehensive Permit Decision, conditions and waivers.

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	5.1.1.1.	Survey and As-built Site Plans	Requires filing of plan with building permit application, as well as as-built survey plot plan after work is completed, with Building Commissioner to confirm compliance with applicable zoning and approvals and relief granted under this By-law.	Waived, and will submit the required documentation but compliance will be based upon the provisions of the Zoning Bylaw as modified and waived under the Comprehensive Permit Decision.
	5.1.2.0.	Enforcement.	The Building Commissioner take any action necessary to enforce full compliance with all of the provisions of this By-Law and of permits, special permits, variances, and site plan approval issued thereunder.	Waived only to the extent that enforcement will be based upon compliance with Zoning Bylaw, but subject to the Comprehensive Permit Decision, conditions and waivers.
	5.3.0.0.- 5.3.3.0. and Site Plan Review & Special Permit Rules & Regulations	Special Permits	Criteria for the grant of Special Permits by the Special Permit Granting Authority.	Waived
	5.4.0.0.- 5.4.9.1; 5.6.0.0.- 5.6.7.0., and Site Plan Review & Special Permit Rules & Regulations	Site Plan Special Permit; Procedures for Special Permits	Requires site plan approval special permit for multi-family unit residential construction; described procedures.	Waived

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	5.7.1.0.	Other Laws.	Where the application of the Zoning By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of the Zoning By-Law shall control.	Waived only to the extent that the ZBA grants waivers of the Zoning Bylaw, as provided in Comprehensive Permit Decision.
	5.7.2.0.	Conformance.	Construction or operations under a Building Permit shall conform to any subsequent amendment of this Zoning By-Law.	Waived. Construction compliance shall conform to Zoning Bylaw pursuant to the Comprehensive Permit Decision, conditions and waivers.

TOWN OF SWAMPSCOTT (OTHER LOCAL REQUIREMENTS)				
REGULATION	TITLE	DESCRIPTION	REQUIRED	PROPOSED
Swampscott Subdivision Regulations	Section 2	Approval Not Required (ANR) Plan Requirements	Application and endorsement form application and other requirements for ANR Plan	Waived. ZBA to endorse Plan C-2 of the Final Plans in accordance with Chapter 40B.
Town of Swampscott Water & Sewer Department Water and Sewer Connection Requirements		Water & Sewer Department connection and fee requirements	Water & Sewer Department connection permit and fee requirements	Waived except that the Applicant will comply with all Town Water & Sewer Department technical requirements and pay applicable fees.