

TOWN OF WELLESLEY



MASSACHUSETTS

ZONING BOARD OF APPEALS

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Record, Decision and Comprehensive Permit

ZBA 2005-83

Walnut Street Firehouse LLC

182 Walnut Street

Name of Record Owner of Title to Subject Property: Town of Wellesley
Contract Purchaser: Walnut Street Firehouse LLC

On October 21, 2005, Walnut Street Firehouse, LLC (the "Petitioner"), with an address of 540 Tremont Street, Boston, MA 02116, filed a petition for a Comprehensive Permit for a Local Initiative Project (LIP), pursuant to the provisions of M.G.L. c. 40B, Sections 20-22, for redevelopment and restoration of the firehouse located at 182 Walnut Street, Wellesley, MA (the "Property"), into three residential condominium units, each of which shall be two-bedroom owner-occupied units (the "Project"). Each of the units will have a floor area of approximately 1,200 sq. ft., with first and second floor living areas, each with two bathrooms, and with communal area for storage and utility services in the basement. Two off-street parking spaces are designated for each unit on the property. The Project shall be located on an existing 14,899 sq. ft. lot in the 10,000 square foot Single Residence District and the Water Supply Protection Overlay District.

There will be one affordable unit, located in the middle of the restored firehouse that will be sold to a home buyer earning no more than eighty percent of the median annual income for residents of the Boston Primary Metropolitan Statistical Area. A Deed Rider containing restrictions on the sale of this unit shall be recorded with the Norfolk Registry of Deed. The remaining two units shall be sold at market rate.

The Firehouse Project is the culmination of a Request for Proposals (RFP) issued by the Town of Wellesley through the Wellesley Housing Development Corporation (the "WHDC") on June 21, 2004. The Petitioner's proposal, dated September 10, 2004, was formally accepted by the Wellesley Board of Selectmen and WHDC on December 13, 2004. Transfer of the property has been authorized and approved by Wellesley Town Meeting.

I. Chapter 40B Affordable Housing Thresholds

At the time of the issuance of this Comprehensive Permit the Town of Wellesley does not meet any of the minimum thresholds for affordable housing established in Chapter 40B or its regulations. According to the Department of Housing and Community Development's (DCHD) Chapter 40B Subsidized Housing

Inventory (Inventory) (revised as of April 24, 2002), the Town of Wellesley has 416 units of affordable housing. According to the Inventory, 4.7 percent of its housing stock is affordable, which does not meet the 10 percent threshold established in Chapter 40B.

The percentage of total land area zoned for residential, commercial or industrial use devoted to low and moderate income housing in 2005 (inclusive of Applicant's project and the approved but not yet completed Hastings Village and Wellesley manor projects) in the Town of Wellesley is 0.0548 percent, which does not meet the 3 percent threshold established in Chapter 40B.

The percentage of land on which the commencement of construction of low and moderate income housing in 2005 (inclusive of Applicant's project and the approved but not yet completed Hastings Village) will be 0.0548 percent, which does not meet the 3 percent of Town's total land area or 10 acres, whichever is greater threshold established in Chapter 40B.

II. Project and Applicant Requirements

Pursuant to the Chapter 40B regulations, the Applicant must fulfill three jurisdictional requirements: (1) the Applicant must be a public agency, non-profit organization, or a limited dividend organization; (2) the Project be fundable by a subsidizing agency under a low and moderate income housing subsidy program; and (3) the Applicant must control the Site (760 CMR 31.01).

The Board received evidence of the Applicant's status as a limited dividend organization. Walnut Street Firehouse LLC is a limited liability company formed under Massachusetts state law. Pursuant to the conditions of this Comprehensive Permit, Walnut Street Firehouse LLC must enter into the Regulatory Agreement in a form approved by Town Counsel, which provides limits on the dividend on owner's equity and return on investment equity to 20 percent.

The Board has received written communication from the DCHD, dated August 12, 2005, indicating that the Project is acceptable.

The Board has received an executed copy of the Massachusetts Local Initiative Program Partnership Agreement by and between the Town of Wellesley and the Applicant dated May 26, 2005 (the "LIP Partnership Agreement"). Accordingly, the Board finds that, pursuant to 760 CMR 31.01 (3), under the terms of the LIP Partnership Agreement, the Applicant controls the Property.

LOCATION AND SITE DESCRIPTION

The Property comprises a 14,899 sq. ft. parcel located at the corner of Walnut Street and Hunting Street. A legal description of the Property is as follows:

A certain parcel of land situated on the southerly side of Walnut Street in that part of said Wellesley known as Lower Falls, containing fifteen thousand square feet and bounded, beginning at the intersection of Hunting Street with Walnut Street and running a little east of south on said Hunting Street, one hundred and fifty feet to a bound at land of William Gleason; thence a little south of west on land of said Gleason one hundred feet to a bound; thence a little west of north on land of grantor, one hundred fifty feet to Walnut Street aforesaid; thence a little north of east on said Walnut Street, one hundred feet to point of beginning. Said premises comprise the whole of lot 4 and part of lots 5 and 8 as shown on plan of land owned by said Monaghan made by Arthur P. French C.E., dated April 1898.

The Property is currently owned by the Town of Wellesley and will be transferred in fee to the Petitioner upon conclusion of the Comprehensive Permit process pursuant to the Land Disposition Agreement between the Town of Wellesley and Walnut Street Firehouse LLC, dated , 2004 (the "Land Disposition Agreement").

The Property is level, improved with the former firehouse building, parking area and related amenities, and is surrounded by existing residences. There are two existing curb cuts, one curb cut is located on Walnut Street and will be largely restricted under the proposal as compared to the current curb cut. The Walnut Street access will afford service to two parking spaces serving the front unit. The second access off of Hunting Street will be maintained to service parking for the middle and back units. There are mature trees on the property that will be preserved. There are no wetlands on the Property.

Submittals from applicant:

1. Application for Comprehensive Permit, dated October 20, 2005
2. Copy of Walnut Street Firehouse LLC Certificate of Organization, dated March 14, 2005
3. Town of Wellesley, Massachusetts Local Initiative Program Partnership Agreement, dated May 26, 2005
4. Site Approval Letter from DCHD, dated August 12, 2005
5. Resume of David L. Goldman and Dennis R. Kanin, Developers
6. Letter dated October 12, 2005 from Citizens Bank of Massachusetts regarding financial standing of Applicant
7. Official Development Prospectus, dated October 20, 2005
8. Requested Waivers for Local Bylaws and Regulations
9. Class A-2 Response Action Outcome Statement and Method 1 Risk Characterization, prepared by ATC Associates, dated October 3, 2005
10. *Histoplasmosis – Protecting Workers at Risk*, Department of Health and Human Services, dated December 2004
11. Storm Water Analysis, prepared by Brassard Design & Engineering, Inc., dated December 13, 2005
12. Filing fee

- 13. Letter from Wellesley Conservation Administrator dated September 23, 2005
- 14. Memorandum in Support of Application for Comprehensive Permit
- 15. List of requested Zoning Bylaws Waivers
- 16. The Land Disposition Agreement

The following plans were prepared by Finegold Alexander & Associates Inc.:

Sheet No.	Title	Date
	Cover Sheet	October 18, 2005
D-1.1	Demo Plans	February 28, 2005
D-1.2	Demolition Elevations	February 28, 2005
A-1.1	Floor Plans	February 28, 2005
A-2.1	Elevations	February 28, 2005 ¹
A-3.1	Sections	February 28, 2005
A-5.1	Door Elevation Finish Schedule	February 28, 2005
A-5.2	Window Types Partition Types	February 28, 2005
A-6.1	Exterior Door Details	February 28, 2005
A-6.2	Kitchen Elevations	February 28, 2005
A-7.1	Stair Plans Details	February 28, 2005
S-1	Structural Framing Plans	July 25, 2005
S-2	Sections & Details	July 25, 2005

¹ As revised December 12, 2005

The following plans were prepared by R.E. Cameron & Associates, Inc.:

Sheet No.	Title	Date	Revision Dates
C-1	Civil Plan And Details	February 28, 2005 ¹	December 12, 2005
C-2		December 12, 2005	

¹ As revised December 12, 2005

The following plans were prepared by Marc Mazzarelli Landscape Architects:

Sheet No.	Title	Date	Revision Dates
L-1	Landscape Plan	October 19, 2005	
L-2	Landscape Notes	October 19, 2005	

III. Hearings

The Board conducted public hearings on the petition on November 17, 2005 and December 14, 2005. The Board moved to close the public hearing and begin deliberations on December 14, 2005. The Board conducted deliberations on February 23, 2006. The Board met on March 8, 2006 and voted to approve the Comprehensive Permit under the Local Initiative Program.

IV. Public Comment

During the course of the hearings on the Application, the Board took testimony and received correspondence from various individuals, including the representatives of the Planning Board, the Design Review Board, the Fire Department, the Town Engineer, the Board of Health, the Municipal Light Plant, the Historical Commission, the WHDC, the Wetlands Protection Committee, and owners of properties in the neighborhood of the Project. The Applicant responded orally and in writing to the issues raised by the Board and other interested parties.

This Comprehensive Permit requires that the Project be constructed in compliance with the standards of the Massachusetts Building Code. Furthermore, the conditions of this Comprehensive Permit require the design of the Project to incorporate features to eliminate the concerns of the Board regarding the health and safety of the occupants of the Project and the occupants of the neighboring parcels.

V. Findings

After reviewing the evidence and extensive testimony, the Board, mindful of the Town's need for affordable housing, voted to approve the Comprehensive Permit, subject to conditions. The Board considered conditions it felt would best ameliorate the issues raised by the construction and operation of the Project, including concerns regarding health and safety of the occupants of the Project and of occupants of neighboring properties. The Board finds that the conditions as approved strike the appropriate balance between protecting health, safety, and welfare of the residents of the Town, the Project, and the abutters and encouraging the development of affordable housing in the Town outside the parameters that the local Wellesley Zoning Bylaw would ordinarily permit.

The Board therefore on motion duly made and seconded unanimously grants a Comprehensive Permit to the Applicant under the provisions of G.L. c. 40B §§ 20-23 for the redevelopment and renovation of the firehouse by Walnut Street Firehouse LLC, substantially in accordance with the plans listed above, as amended by future submissions to the Board, subject to and conditioned upon the following requirements captioned "Conditions to the Comprehensive Permit." The Board further approves exceptions to the Zoning Bylaw as described below in the section entitled "Exceptions Granted."

CONDITIONS TO THE COMPREHENSIVE PERMIT

The Board's approval of the Comprehensive Permit for the Project is premised on the Applicant's and Project's compliance with the following conditions. All requirements imposed by these conditions or this Permit shall be applicable to the Condominium Association or other entity responsible for the administration of the Project regardless of whether the condition specifically identifies the Applicant, the Condominium Association, or no entity as having responsibility for a particular condition.

General

- (1) The Applicant submitted an application to the Board for the construction and renovation of a three unit housing development located in a renovated existing historic structure at 182 Walnut Street, as shown in the plans listed in Section II of this Comprehensive Permit. The Project shall be comprised of no fewer than one unit designated as an affordable unit (the “Affordable Unit”), with the remainder of the units designated as market units (the “Market Units”).
- (2) The Project shall be built by the Applicant, which shall at all times be a limited dividend organization in good standing and otherwise in accordance with applicable requirements of Chapter 40B and the applicable standards of the DHCD. Except as provided in this paragraph, this Comprehensive Permit is not assignable (including the transfer of any legal or beneficial interest in the Applicant or the properties) without prior written consent of the Board. Notwithstanding the foregoing, the transfer of this Comprehensive Permit to the Applicant's construction lender (the "Lender") or to any acquirer pursuant to the mortgage granted to the Lender shall not be a prohibited assignment, provided that the Lender or such other acquirer delivers to the Board a written agreement to be bound by all of the provisions of this Comprehensive Permit. Any material change in the composition or control of Walnut Street Firehouse LLC shall be subject to approval by the Board.
- (3) Except for the relief granted by the Board as listed in the section below entitled Exceptions Granted, the Applicant shall comply with all provisions of the Zoning Bylaw, general bylaws, and all the rules and regulations of the Planning Board and the Board of Health generally applicable to a project approved on or before March 8, 2006. No fees are waived in connection with the Project. Fees shall be those then in effect at the time of application for the permit or approval subject to the fee.
- (4) The Applicant shall execute or cause to be executed: (i) a Monitoring Agreement; (ii) a Master Deed; (iii) an Organization of Unit Owners; (iv) a Regulatory Agreement; and (v) a Deed Rider; (collectively, the “Project Agreements”). To the extent the Project Agreements conflict with the Land Disposition Agreement, the Project Agreements shall govern. The Project Agreements shall be consistent with the requirements and conditions of this Comprehensive Permit. Prior to execution, each of the Project Agreements shall be approved by Town Counsel and the Board. The requirements of the Project Agreements are incorporated into this Comprehensive Permit by reference. All documents required to be filed under this Permit shall be submitted to Town Counsel and this Board prior to execution for review to ensure consistency with the conditions contained herein. Prior to the issuance of a certificate of occupancy, the Project shall be organized as a condominium in accordance with applicable law.
- (5) Prior to the issuance of the first Certificate of Occupancy, a Condominium Master Deed and a document establishing the Organization of Unit Owners shall be submitted for review and approval by Town Counsel and this Board, and then recorded in the Norfolk Registry of Deeds. Condominium documents shall specify any variations in fees for the affordable units. The Board reserves the right to approve these items. Maintenance schedules and responsibilities for the driveways, development infrastructure, and stormwater management system shall be specified in said documents, and said documents shall not be materially amended without consent of the Board.

- (6) This Comprehensive Permit shall not be effective until it and the plans sheets C-1 as revised by sketch, L-1, as revised by sketch, A-1.1, A-2.1 and A-3.1 are recorded with the Norfolk County Registry of Deeds, a certified copy of which shall be provided to the Board. This Comprehensive Permit shall expire two years from the date hereof unless prior to that time a building permit has issued for the Project and construction has commenced. The Applicant may apply to the Board for reasonable extensions to this Comprehensive Permit for good cause.
- (7) Prior to issuance of any building permit for the Project, final plans shall be submitted to the Board for review as to their general consistency of the final plans with this Comprehensive Permit.
- (8) Compliance with all terms and conditions contained in the LIP Partnership Agreement is required. Copies of all plans and written material required under this Agreement and the LIP Agreement shall be submitted to the Board. In any case where the terms of this Comprehensive Permit Decision and the LIP Partnership Agreement differ, the terms of this Comprehensive Permit shall govern.

Affordability

- (9) The Affordable Unit shall remain affordable in perpetuity through a Deed Rider subject to approval in form and content by the Board and Town Counsel. Said Deed Rider shall be recorded at the Norfolk Registry of Deeds with the sale of the Affordable Unit and shall run with the land. The Deed Rider shall describe the procedure for reviewing the restrictions that the Affordable Unit shall be maintained as an affordable unit in perpetuity as this condition requires.
- (10) Without limiting the rights of the Applicant granted under this Comprehensive Permit, all three units allowed under this Comprehensive Permit shall count toward the Town's quota of affordable housing units pursuant to M.G.L. Chapter 40B, Sections 20-22. However, in the event that a third party State agency or other interested party takes the position that only the Affordable Unit should so qualify, and should such a position prevail in a decision rendered by a court of final jurisdiction, such decision shall not affect the validity of this Comprehensive Permit.
- (11) The Applicant in conjunction with the Monitoring Agent shall establish the sale price for the Affordable Unit. The Affordable Unit shall be made available at a sale price that is affordable to households earning not more than 80% of the household median income of the Boston Primary Metropolitan Statistical Area (as defined by HUD on an annual basis) adjusted for household size which is based on one person per bedroom for the Affordable Unit, all as more particularly described in the Regulatory Agreement described in Condition 4. The maximum sale and resale price for the Affordable Unit shall be determined by the WHCD, and set forth in the Regulatory Agreement and Deed Rider, to be a price such that a household earning no greater than 80% of the median income for the Boston, MA Primary Metropolitan Statistical Area for a family of three (3) for a two bedroom would pay no more than 30% of gross income for the sum of annual debt service on a mortgage of 95% of the sale price (including principal and interest at current interest rates) plus property taxes, property insurance (unless covered by the condominium fees), private mortgage insurance and any required condominium association fees. Qualified households shall have household assets of no more than \$350,000.00 or the

maximum amount allowed by the Commonwealth of Massachusetts' Department of Housing and Community Development ("DHCD") guidelines adjusted for any increases in area median income from the date of this Comprehensive Permit to the date of the household's application. Once the Applicant establishes a price for the Affordable Unit and advertises such sale price, such price shall not be increased for a period of six months after the first such advertisement. Prior to submitting the proposed Regulatory and Deed Rider to the Board, the Applicant shall use best efforts to obtain the appropriate governmental approval restricting the Affordable Unit in perpetuity in accordance with MGL c. 184 §§ 31-33. In the event the necessary governmental approvals for such restrictions is denied the proposed Deed Rider shall set forth a period of affordability which shall be the longest period allowed by law, but in no case less than ninety-nine years. In the event the perpetuity restriction is denied the Applicant shall provide the Board written evidence of its efforts and the responses, including the denial and grounds therefore, to such request

- (12) Prior to the advertisement of the Affordable Unit for sale, the Applicant shall develop a marketing and resident selection plan for the Affordable Unit, and submit such plan to the WHDC for review and approval. The marketing and resident selection plan shall conform to: (i) all affirmative action requirements or other requirements imposed by federal or state regulation; (ii) the "Guidelines for Housing Programs in Which Funding is Provided Through a Non-Governmental Entity" adopted by the DHCD; and (iii) the local preference requirements set forth below. The marketing and resident selection plan shall require timely notice to the Board and to the WHDC of the availability for sale or re-sale of the Affordable Unit.
- (13) The Local preference Criteria set forth in Exhibit C to the Land Disposition Agreement shall govern.
- (14) If the Affordable Unit is unable to be sold to an eligible purchaser within a 180-day period from the date the Affordable Unit was put on the market, as determined by the date of the first advertisement for sale or the date an agreement was signed with a listing broker to market the Affordable Unit, the Town through the WHDC, shall have the right (but not the obligation) to purchase the Affordable Unit at the affordable price. The seller of the Affordable Unit shall notify the Town, the Board, and the WHDC in writing at the expiration of the initial 180-day sale period. In order to exercise its right to purchase the Affordable Unit, the Town must declare its intent to purchase the Affordable Unit in writing to the seller of the Affordable Unit and any broker within 60 days of the notification and must complete the closing within 60 days of the notification. If the Town does not exercise this right, the Affordable Unit may be sold in accordance with the terms of this Comprehensive Permit. At the expiration of every further 180-day period in which the Affordable Unit is not sold (measured from the expiration of the time period for the Town's response to the Affordable Unit seller), the seller shall again notify the Town, the Board, and the WHDC in writing. After the initial offer to the Town, the Town must declare its intent to purchase the Affordable Unit in writing to the seller of the Affordable Unit within 15 days of each subsequent notification and must complete the closing within 45 days of the notification. The Town may assign or delegate this right to a subdivision of the Town or another entity which supports the creation and maintenance of affordable housing.

- (15) For the Affordable Unit previously offered to, but rejected by, the Town under provisions of this condition, the Town may require the seller of the Affordable Unit to sell the Affordable Unit to a currently available purchaser qualified as eligible under this Comprehensive Permit at any time prior to the execution of a purchase and sale agreement between a seller and a buyer not qualified as eligible for the Affordable Unit. Any offer to purchase the Affordable Unit previously offered to, but rejected by, the Town under the provisions of this condition shall contain a contingency incorporating the Town's right to require the seller under these conditions prior to the execution of a purchase and sale agreement.
- (16) If the seller of the Affordable Unit previously offered to, but rejected by, the Town under the provisions of Paragraph (14) accepts an offer to purchase an Affordable Unit in accordance with this Permit for an amount less than 95 percent of what it would have been sold as the Affordable Unit, the seller shall provide written notice to the Town, the Board, and the WHDC of that intent to sell at such a price, and the Town shall have 15 days to declare its intent to purchase the Affordable Unit at that price. The Town must complete the closing within 45 days of the notification. Any offer to purchase the Affordable Unit previously offered to, but rejected by, the Town shall contain a contingency incorporating the Town's right to require the seller to sell to the Town under these conditions and the seller shall not execute a purchase and sale agreement until the expiration of the Town's notification period under this paragraph.
- (17) The provisions sections 15 through 17 apply to only the first sale of the Affordable Unit.
- (18) The percentage interest of the units in the condominium common elements shall be based on the sales prices of the units, including the sales price of the Affordable Unit consistent with this Comprehensive Permit.

Design

- (19) Design and construction of the Project shall fully comply with all applicable federal and state laws and regulations, including, but not limited to, the Massachusetts State Building Code (CMR 780), and with the regulations of the Department of Public Works with respect to a Water Supply Protection District. This Project shall be designed and constructed on the Site in accordance with the Plans, except as provided in the Comprehensive Permit, including the Conditions. Any requirement of consistency with the Plans means as those Plans are modified by the Conditions.
- (20) No more than 3 two-bedroom dwelling units shall be constructed in the Property identified in the Plans. The unit types, sizes and mix of units will be in accordance with the Plans. Construction of all dwelling units, utilities, pedestrian and vehicle areas, drainage structures and all related appurtenances shall be in accordance with the Plans. The exterior and interior appearance and fixtures of the Affordable Unit shall be indistinguishable from the Market Units. The location of the Affordable Unit shall be as shown on Sheets A-1.1 of the Plans, with Unit 2 comprising the Affordable Unit. Each dwelling unit shall contain no more than two bedrooms and such restriction shall be included in all relevant documents, including the Project Agreements and any condominium rules and regulations.
- (21) Contract documents, including working drawings and specifications for any building renovations, modifications, additions, or removals shall undergo the usual and customary review and approvals of the Building Inspector, the Board of Health, the Fire Chief, the Town

Engineer, or any other applicable local inspector or board. In addition, to assure that contract documents are consistent with the preliminary plans submitted in support of this Comprehensive Permit, concurrent with the application for a building permit, the Applicant shall submit contract documents to the Board for approval. Construction of the Project shall be subject to on-site compliance inspections by the Building Department in the customary manner.

- (22) All utilities serving the Project shall be installed underground, including any extensions from existing lines or poles external to the Property. All existing overhead utilities and poles located on the premises shall be removed and replaced with underground service.
- (23) After the construction period, there shall be no exterior dumpsters on the Property. The Applicant shall provide for trash space inside the property as shown on the Plans.
- (24) All air conditioning equipment shall be located in the interior of the building, within the attic space, or otherwise as shown on the floor plan details.

Fire Protection

- (25) The Applicant shall design and install a fire detection and fire protection system meeting the requirements of the Massachusetts Building Code. The Applicant shall also install carbon monoxide detectors.
- (26) The fire detection system shall have visual indicators of a fire alarm condition in each unit sufficient to warn occupants without the ability to hear of a fire alarm.
- (27) The fire detection system shall be connected to a third-party monitoring service, the costs of which shall be paid by the Condominium Association. The Condominium Association shall retain a qualified entity to make a yearly inspection of the fire and carbon monoxide detection and protection systems and shall make a yearly certification to the fire department that the fire and carbon monoxide detection and protection system is fully functional and continues to be connected to a third-party monitoring service.

Stormwater Run-off and Drainage

- (28) The stormwater run-off and drainage system shall be operated and maintained in accordance with the Operations and Maintenance Plan submitted by the Applicant. Operation and maintenance of the stormwater run-off and drainage system shall comply with the requirements of the Town's "Municipal Stormwater Drainage System Rules and Regulations".
- (29) Following the initial sale of the last unit, the responsibility for maintenance of said drainage system shall be the responsibility of the Organization of Unit Owners, and said responsibility shall be described in the Master Deed.
- (30) No soluble chemicals that can pass through the grit chambers and sediment traps to be reinjected into the soil shall be used for snow and ice removal or control.

- (31) The Applicant shall provide a written snowplowing protocol to the Town Engineer, with a copy to the Board, to ensure that snow shall not be plowed or stockpiled on abutting properties.
- (32) The Applicant retains responsibility for any additional required remediation of site contamination.

Traffic and Parking

- (33) During the post-construction period, all parking for residents and guests shall be within the spaces provided on the Property. The Project shall include parking spaces in accordance with the Plans and sketches submitted, and the final Plans shall have one parking space large enough to be classified a handicapped space.
- (34) The condominium documents shall include a provision that no vehicle shall park along Walnut Street, except in designated parking areas.
- (35) The Applicant shall provide a final exterior lighting design that includes location and design of light posts and luminaries for all exterior lighting to the Board for approval. The final design shall prevent any light spillover to abutting residential properties.

Signage

- (36) Any signage identifying the premises shall not exceed an area of one foot by one foot by three feet and a height of four feet, and shall be set back a minimum of six feet from any property line. The final design of the Project sign shall be approved by the Board. The precast concrete sign "3 Hose 3" as shown on plan A-2.1 shall be installed.
- (37) The Applicant may display a temporary marketing sign stating appropriate marketing information. The temporary sign shall be displayed for no longer than one year, which term shall be renewable at the Board's discretion. The temporary sign shall be made of high-quality materials and be consistent with the Project Sign and the neighborhood.

Construction

- (38) During the period of construction, no vehicles of construction workers and no construction equipment shall be parked on Walnut Street or Hunting Street, or any other public way of the Town.
- (39) During the period of construction, all deliveries of construction materials and equipment shall be made only on Monday through Friday no earlier than 7:00 a.m. and no later than 5:00 p.m. Construction operations shall be limited to the hours of 7:00 a.m. through 6:00 p.m. Monday through Friday, and 8:00 a.m. to 4:00 p.m. on Saturday. Except for emergency conditions, no construction work shall be allowed on Sundays.
- (40) During construction the Property shall be secured in a manner approved by the Building Inspector so as to prevent personal injury or property damage.

- (41) Landscaping shall be in conformance with the Landscaping Plan and shall be maintained, repaired, or replaced as needed by the Condominium Association.
- (42) During the construction period, between May 1st and September 30th, no construction activity shall create any areas of standing water that could become potential mosquito breeding areas.
- (43) During construction, any mobile food vendors/trucks that service this Property must be permitted by the Wellesley Health Department.
- (44) The Applicant shall provide as-built plans of the Project to the Board and the Building Inspector as soon as practicable after completion of construction, but before the issuance of a certificate of occupancy.

Security

- (45) The construction of all on-site and off-site structures and installations of municipal services shall be secured by the following method:

The general contractor shall provide a dual obligee, 100% payment and performance bond from a insurance company authorized to do business in the Commonwealth of Massachusetts; the general contractor shall also provide a lien bond, so called, pursuant to the provisions of MGL c. 254, which shall be recorded with the Norfolk County Registry of deeds before construction commences.

The remaining provisions of the Land Disposition Agreement with respect to insurance requirements shall also apply.

- (46) The Board may refuse security based upon the advice from Town treasurer as to the financial status of the company or institution involved.

Rental Restrictions

- (47) The petitioner shall develop and sell three (3) units as owner-occupied condominiums and not as rental units. The Master Deed and Organization of Unit Owners document of the condominium shall provide, among other things, that any lease or rental of a unit by a Unit Owner shall be subject to the following conditions:
 - (a.) Such lease shall be in writing.
 - (b.) The lease shall apply to the entire unit and not a portion thereof.
 - (c.) The term of the lease shall be for a term of not less than six (6) months nor more than one (1) year, and may not be renewed or self-extending. After each rental, the unit must be owner occupied for at least one year.
 - (d.) No more than one (1) of the Market rate units shall be leased or rented at any one time without the approval of the Board of Appeals.

- (e.) The occupancy of any rental unit shall be for not more than the number of unrelated persons as provided in the Wellesley Zoning Bylaw or three (3) persons, whichever is less.
- (f.) The lease shall expressly provide that the lease is subject to the Master Deed, the Organization of Unit Owners and the Rules and Regulations of the Condominium Association and this Comprehensive Permit.
- (g.) A copy of the lease shall be provided to the Organization of Unit owners who shall report all rentals to the Board of Appeals annually.
- (h.) Leasing or renting of the Affordable Unit is prohibited, except as governed by the provisions of the Regulatory Agreement or Deed Rider.
- (i.) All units must be occupied by the Buyer of the unit for a minimum of one year after initial purchase and occupancy, and for a minimum of one year after each transfer of ownership, prior to any rental or leasing of said unit unless given written permission by the Board of Appeals.
- (j.) Rental solely for investment purposes is prohibited.
- (k.) The foregoing provisions of the Master Deed and Organization of Unit Owners shall not be amended without the prior written consent of the Board of Appeals.

Miscellaneous

- (48) The Applicant agrees to (1) limit his financial return to a “Petitioner’s fee” equal to not more than 20% of “all development costs” (hard, soft, land and construction costs); and (2) to remit all “profit” (total sales of all units less development costs and Petitioner’s fee) to the Town. To monitor these obligations, prior to receiving its building permit, the Applicant shall file with the Board for its approval a pro forma showing the expected total development sales, development costs (including Petitioner’s fee) and resultant profit. Prior to receiving its first Certificate of Occupancy, the Applicant shall file with the Board for its approval a final, but not yet audited budget showing the expected total sales, the actual development costs (including Petitioner’s fee) and the expected profit. Upon the sale of the last unit to be sold, and after the audit of the project’s financials by DHCD, or failing DHCD to conduct such audit, an audit by a firm designated by the Board, has been completed, and approved by the Board, all remaining profit shall be paid to the Town, which shall thereupon complete the Applicant’s obligations under this provision. The Town shall hold, manage and disburse all payments received by it under this provision in a separate account, dedicated to establishing affordable housing in the Town, under the jurisdiction of the Board of Selectmen or its appointees for said purpose, to be expended in consultation with the Wellesley Housing Development Corporation (WHDC) in order to fulfill its goals.
- (49) No provision of the Master Deed may be amended without the prior written permission of the Board.

WAIVERS GRANTED

The Board grants the following waivers to the Zoning Bylaw in accordance with the conditions of this Permit.

Zoning Bylaws

- a. Section II.A.1. Requirement for one-family dwelling in Single Residence District.
- b. Section II.A.7. Requirement for a Special Permit, in accordance with Section XXV, for more than one-family dwelling in a Single Residence District.
- c. Section II.A.11 Requirement for a Special Permit, in accordance with Section XXV, for conversion of a building and site previously used for a municipal purpose.
- d. Section XIVE.E. Requirement for Site Plan approval, in accordance with Section XVIA, for projects with the Water Supply Protection Overlay District.
- e. Section XVI.E. Requirement for Site Plan approval, in accordance with Section XVIA, for construction of other than single and two family buildings.
- f. Section XVIA. Requirement for Site Plan approval as a Minor Construction Project.
- g. Section XVIC. Requirement for Drainage Review.
- h. Section XVII.B.2. Requirements for Special Permit/Findings under M.G.L., c.40A, Section 6, for changes to non-conforming structures of other than one and two family residences.
- i. Section XVIII.A. Area regulations requiring one dwelling for each 10,000 sq. ft. of lot area in the SF10 district.
- j. Section XIX.B. Requirement of not more than one dwelling unit on any lot; and requirement for front, side and rear yard setbacks to the existing firehouse structure and proposed alterations thereto.
- k. Section XX. Requirement for height limitations of forty-five (45) feet, or three stories, to the existing firehouse structure (including the firehouse tower) and proposed alterations thereto.
- l. Section XXIA Requirements for signs in a residential district with respect to the "3 Hose 3" sign.
- m. Section XXI.C. Requirement for a parking plan.
- n. Section XXI.D. Specific regulations and restrictions for off-street parking.

- o. Section XXI.E. Requirement for administrative review of parking plan by Building Inspector.
- p. Section XXII. Design Review requirements.
- q. Section XXV. Special Permit Granting Authority, together with rules and regulations governing the issuance of special permits.

General Bylaws

Curb Cut Permit Due to the fact that the Project will utilize existing curb cut entrances to the subject property, reducing in large part the existing curb cut to Walnut Street, additional permit review is waived in conjunction with the issuance of the Comprehensive Permit.

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40B
SECTIONS 20-23, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN
THE OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

Randy Becker, Vice Chairman

cc: Planning Board
Housing and Development Corporation
Board of Selectmen
Town Engineer
Inspector of Buildings
Town Counsel

Cynthia Hibbard

Dated and filed in the Office of the Town Clerk

On March , 2006