

DECISION
680 Worcester Road, Wellesley, Massachusetts
Comprehensive Permit

Decision Number: 2018-64
Date Application Filed: August 7, 2018
Applicant: 680 Worcester Road, LLC
Premises Affected: 680 Worcester Road, Assessor's Map 121, Lot 18 (the "Site")
Relief Requested: Comprehensive Permit, G.L. c. 40B, §§ 20-23
Public Notice: August 23 and 30, 2018
Public Hearing(s) held: September 6, 2018, September 25, 2018, November 1, 2018, November 20, 2018, December 4, 2018, January 15, 2019, February 13, 2019, March 12, 2019, March 26, 2019, April 30, 2019 and May 28, 2019.
Decision of the Board: Approved with Conditions
Members participating: Robert W. Levy, J. Randolph Becker, Derek B. Redgate
Date of Decision: July 11, 2019

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02481
2019 JUL 17 PM 12:04

The Project

680 Worcester Road, LLC (the "Applicant") has applied to the Zoning Board of Appeals (the "ZBA" or the "Board") of the Town of Wellesley (the "Town") for the issuance of a comprehensive permit subject to General Laws Chapter 40B, §§20-23 for property located at 680 Worcester Road. The property is a single lot containing 20,029 sf (0.46 acres) of land (the "Site") lying in a Single Residence 10 (SR-10) zoning district. The Applicant presented several iterations of its project as the public hearing on this application progressed. As initially submitted by the Applicant, the application sought to construct twenty (20) rental units on the Site.

The building as originally proposed was four stories, with each of the four stories occupying the full footprint of the building. The Applicant revised this proposal to a five-story building, still containing twenty (20) rental units, with step backs of the third, fourth and (newly added) fifth floor from the easterly property line. At the May 28, 2019 session of the public hearing (with the time for the ZBA to conduct the public hearing set to expire that evening), the Applicant presented its final revisions to the proposed building, which eliminated the fifth floor and moved the fourth floor back closer to the easterly property line (as compared to the prior iteration). The Applicant did not inform the ZBA with certainty how many dwelling units would be contained in this last revised building configuration, but the number of units was understood to be several fewer than twenty (20) based on the removal of the fifth floor. At this May 28 session of the public hearing, the Board gave the Applicant the option of continuing the public hearing to allow for further discussion of this latest revision, and for the Applicant to provide more information regarding the number and configuration of dwelling units that it would contain. The Applicant declined to provide an extension of the time to conduct the public hearing, and instead asked the ZBA to approve the revised building form with the final number of units to be left as an open question. Unlike the height of the building and the step-backs of the upper floors, the footprint of the building did not change during the course of the public hearing.

Each floor of the Project has a central corridor that provides accessible access to each unit. Vertical access throughout the building is provided via an elevator that extends from the garage to the third residential floor, and through two stair cases, also extending from the garage level to the third residential level. A covered main entrance leads to the main lobby. Mechanical and electrical rooms are housed in the garage area, and the roof contains the air conditioning condenser units and the elevator machine room.

The building's generally rectangular form is faceted and, as revised during the hearing, the third and fourth floors step back from the east façade. On the west façade the grade difference between the building and the adjacent Newton-Wellesley Center for Alzheimer's Care ("NWCAC") is accommodated with a segmental retaining wall from the adjacent grade to the grade of the garage level. On the south, a segmental retaining wall accommodates the grade at the western end, and a grassed slope (2H:1V) makes the grade transition from the garage level down to the adjacent residential lot.

The area along the west façade of the building is principally paved area to allow for vehicular traffic access and egress to this area and is basically without landscaping or amenities. To the north, there is a raised planting area about four feet high that meets natural grade at the easterly boundary. This raised area features a brick wall and works

with the brick façade of the garage level to create a masonry base for the residential floors above. The east façade is landscaped, both along the building and along the lot line, but without access from the sidewalk along the north, there are no amenities. At the south façade, landscaping is provided at the toe of the slope below the open air parking, but there are no accessible spaces or amenities.

The Site is a currently vacant lot found at the southern-most side of the east-bound lanes of Worcester Street (Route 9) a major traffic thoroughfare carrying approximately 44,000 cars per day (two-way, 24-hour volume) to and from Boston. Prior to the application for a comprehensive permit, the Site held a single family one and a half story home on a lot encompassing 20,029 square foot lot.

The Site is bounded on north by Route 9, and across Route 9 by a single-family residential 20,000 sf district. To the east lies a single-family residential 10,000 sf district in the Francis/Stearns Road neighborhood. To the south lies a single-family residence, and a vacant lot that is adjacent to the parking area of the NWCAC, a medical facility operated by National Health Care Associates. Further to the south lies Stearns Road and a vacant lot that is currently proposed for a second, separate multi-family 24-unit condominium project previously approved with conditions under a comprehensive permit. To the west of the Site lies the NWCAC and its parking area.

Land use to the east and south is principally single-family residences that were built between 1912 and 1941, and that are sited on lots that average approximately 15,000 sf in area, comfortably meeting the SR-10 lot size requirements. The Site, at 20,029 sf, is slightly larger than the average lot size in the neighborhood.

Topographically, the Site exhibits considerable relief. Along the Route 9 boundary, the topography of the Site ranges from elevation 154 feet at eastern end to elevation 148 feet along the western end, a six foot drop. The site generally slopes in a southwesterly direction to a low point of elevation 139 feet at the southwest section of the Site, giving an overall relief of 15 feet.

The geology on the Site includes moderate to steep grades. Three deep observation holes were performed on the Site to determine the characteristics of the soil, depth to groundwater and suitability of infiltrating stormwater runoff from impervious areas. The results indicate gravel, to coarse sand to loamy sandy soils, with depths ranging from 96 inches to 125 inches below ground surface. The results also indicate that the annual high groundwater table is approximately five feet below grade.

Governing Law

1. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the "Act"), and the regulations promulgated by the Department of Housing and Community Development ("DHCD"), 760 CMR 56.00 et seq. (the "Regulations").
2. The Act promotes regional distribution of low- or moderate-income housing by preventing individual cities and towns from using exclusionary zoning to block construction of such housing. Toward these ends, the purposes of the Act are satisfied if: (a) a town has

low or moderate income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census or (b) on sites comprising 1 ½ percent or more of the town's total land area zoned for residential, commercial, or industrial use, or (c) the application results in the commencement of low and moderate income housing construction on sites comprising more than 0.3 percent of such total area or 10 acres, whichever is larger, in one year.

3. DHCD's Regulations expand the definition of what constitutes satisfaction of the statute to include such methods as "recent progress" toward the statutory minima or compliance with a DHCD-approved housing production plan, all as described in 760 CMR 56.03(1).

4. At the time of the filing of this comprehensive permit application, the Town did not meet the statutory minima set forth in G.L. c. 40B § 20 or the "safe harbor" provisions of 760 CMR 56.03(3). Specifically:

- a. At the time of the filing of the application, the number of low- or moderate-income housing units in Wellesley constituted 6.3 percent of the total year-round units in the Town, based on the most recent decennial census. Thus, the Town does not meet the 10 percent statutory minimum.
- b. Existing affordable housing units are on sites which comprise less than one and one half percent of the total land area of the Town which is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).
- c. Granting the Applicant's request for a comprehensive permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
- d. At the time of the filing of the application, the Town did not have a Chapter 40B Housing Production Plan approved by DHCD under 760 CMR 56.03(4).
- e. The Town has not made "recent progress" as that term is defined in 760 CMR 56.03(5).
- f. The proposed development does not constitute a "large project" as defined in 760 CMR 56.03(6).
- g. The Site is not subject to any "related applications" as that term is defined in 760 CMR 56.03(7).

5. Given the foregoing, the ZBA's decision on this comprehensive permit application must balance the regional need for low- or moderate-income housing against the Town's long-range planning goals, local requirements and regulations to the extent that they are applied equally to subsidized and unsubsidized housing, and valid concerns about the health and safety of residents of the proposed housing, the surrounding neighborhood, or the Town as a whole.

6. The Applicant submitted to the ZBA a Project Eligibility Letter from Mass Housing dated May 23, 2018. Pursuant to 760 CMR 56.04, the issuance of this letter establishes as a matter of law that the Applicant is a limited dividend organization, that the Project is fundable by a Subsidizing Agency under a low or moderate income housing program, and that the Applicant has control of the Site. The issuance of this letter by Mass Housing allows the Applicant to file its comprehensive permit application with the ZBA

Procedural History

The Applicant submitted its application to the ZBA on August 7, 2018. The ZBA published notice on August 23 and 30, 2018, and sent notice to all parties in interest. The ZBA opened the public hearing on this application on September 6, 2018 and held continued sessions of the hearing on September 25, 2018, November 1, 2018, November 20, 2018, December 4, 2018, January 15, 2019, February 13, 2019, March 12, 2019, March 26, 2019, April 30, 2019, and May 28, 2019. The Applicant agreed in writing to extend the time for the ZBA to conduct the public hearing on this application through May 28, 2019, and declined to grant any additional extensions beyond that date. The ZBA voted to close the public hearing on May 28, 2019, which was the final day for the hearing to remain open absent agreement from the Applicant.

Over the course of the public hearing, the ZBA heard and considered extensive testimony from the Applicant and its consultants. The ZBA also received guidance from its M.G.L. c.40B consultant Judi Barrett of Barrett Planning Group LLC, and retained expert peer review of the Applicant's submittals from the following:

Civil Engineering: David J. Hickey, Town Engineer for the Town of Wellesley
Architecture and Design: Clifford J. Boehmer of Davis Square Architects
Traffic and Transportation: Robert L. Nagi of VHB

The ZBA also heard a considerable amount of testimony from abutters and residents from the surrounding neighborhood. During each session of the public hearing, these neighbors presented a compelling case in opposition to the Project. They raised numerous objections including, without limitation, the height and bulk of the proposed building relative to the surrounding single-family dwellings. The ZBA acknowledges the concerns expressed with respect to the Project, and notes that the impacts the neighbors cited may well have supported a denial of the Project in some other permitting context. After applying the standard of review under M.G.L. c.40B, §§20-23 and 760 CMR 56.00, however, the ZBA determined that the Project could be conditioned in such a way so as to minimize its impacts and therefore that the evidence in the record did not support a full denial of the application. With the understanding that this decision does not represent the desired result of the neighbors, the ZBA acknowledges their participation, concerns and input in the public hearing.

At a meeting held on July 3, 2019, the ZBA voted 3-0 to approve the Project subject to the findings, the action on the requested waivers, and the conditions set forth herein.

Findings of Fact

1. Zoning

a. Use Requirements

The Project is located in an SR-10 zoning district. Among the uses allowed in the SR-10 district are: (1) one-family dwellings; (2) educational uses; (3) child care facility; (4) clubs; (5) agriculture; (6) certain home occupations; (7) accessory uses customary to the allowed uses; and (8) certain other specialized uses upon the granting of a special permit. As a multi-unit, multi-family residential building, the use of the Project is not allowed in an SR-10 district, and this gives rise to the first principal waiver request under the comprehensive permit requested under G.L. c.40B §§ 20-23.

b. Dimensional Requirements

The Zoning Bylaw provides for each zoning district dimensional requirements for the lot, for the placement of buildings and structures on the land, and for the structures themselves. The dimensional requirements for the SR-10 district, and the corresponding dimensional information from the Project are summarized in Table 1.

Table 1 – SR-10 Dimensional Comparison

Category	Required	Project
Lot Area	10,000 sf	20,029 sf
Frontage	60 ft	200 ft
Minimum Front Yard Width	60 ft	200 ft
Minimum Front Yard Depth	30 ft	12.2 ft
Minimum Side Yard Width	20 ft	20.5 ft
Minimum Rear Yard Depth	10 ft	10.2 ft
Maximum Building Coverage	0.25	0.38
Maximum Building Height	45 ft	50.5 ft

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02482
2019 JUL 17 PM 12:05

With respect to the dimensional requirements for the lot, the Project meets the SR-10 requirements for both lot area and lot frontage. With respect to those requirements for the placement of the structure on the lot, the Project meets all yard width and depth requirements for the SR-10 district, except for front yard depth, which is constrained by the slope easement described below. For the dimensional requirements for the structures themselves, the Project exceeds the maximum building coverage and maximum building height for the SR-10 zoning district.

2. Land Use and Planning

As noted above, under the Zoning Bylaw, multi-family residential use is not allowed in the single residential districts that comprise the bulk of the residential land in Town. All the commercial zoning districts allow multi-family residential uses and there are four residential zones that allow more than single-family houses. Three of those zones cover relatively small areas and were tailored for specific projects that are not expected to change. The General Residence zone, however, covers 73 acres but allows only two-family buildings and town houses in addition to single-family houses.

Participants in the Unified Plan (the Town's Master Plan) public meetings saw the commercial, office and industrial districts as the most acceptable locations to construct new housing that is not single-family housing. A mixed-use approach, combining housing with retail stores, was often mentioned. The Zoning Bylaw requirements for the administrative and professional districts that the Unified Plan envisions would be the location of the multi-family housing, currently do not allow such uses. The Unified Plan does not anticipate developments like the Project in SR-10 districts.

3. Site

In order to accommodate the Project, the Site is to be re-graded, and earth material will be excavated and removed from the Site to make way for the foundations and underground Site features. These operations give rise to two issues that may impact the analysis: (1) retaining walls; and (2) easements.

a. Retaining Walls

To accomplish the grading of the Site, retaining walls are proposed along portions of the western and southern property lines. The retaining wall along the western lot line varies in height along its length to 9.3 feet. The face of the western wall is visible to the commuters on Route 9, and to the abutters at the NWCAC, but not to residents of the Project. At its southern end the western retaining wall turns and continues as the southern retaining wall to the east along the southern lot line with the height varying from 9.3 feet to three feet. The face of the southern wall is not visible to the residents of the Project, but will be visible from the abutters' property at 11 Stearns Road.

The retaining walls are proposed to be Stone Strong Walls® a precast concrete system manufactured to imitate natural stone. Due to the height and location of the wall along the property lines, the retaining walls will require waivers from the applicable section of the Zoning Bylaws. The Applicant has agreed to add plantings along the retaining wall to soften the visual impact of the wall when viewed from the NWCAC and Route 9.

b. Easements

The Site is subject to two easements, referred to as the slope easement (which runs to the benefit of MassDOT) and the sewer easement (which runs to the benefit of the DPW).

i. Slope Easement

The slope easement lies adjacent to the north lot line (the Route 9 frontage), is trapezoidal in shape (i.e. the easement varies in depth across the width of the Site), and extends across the entire frontage from beyond the east lot line to beyond the west lot line. The slope easement was reportedly used by MassDOT during a construction project for Route 9 in the mid-1970s, and has apparently not been modified or released.

The slope easement impacts the siting of the building, and the provision of public amenities in the easement space. The building is sited as close to the north lot line without either the building or the foundations encroaching on the slope easement. The electrical transformer at the northeast corner of the Site has been located to avoid the slope easement. Except for landscaping, no amenities are located in the slope easement.

ii. Sewer Easement

The 15-foot wide sewer easement lies perpendicular to the eastern lot line, and extends 81 feet into the Site. A six-inch clay sewer line is located within the easement, and extends from the connection at the now demolished single-family house across the eastern lot line, through the back yards of adjacent residences to Francis Road.

The sewer easement impacts the siting of the building, and the use of the land on the southern side of the building. The building has been sited such that the southern façade and its foundations are outside of the northern boundary of the sewer easement. The land within the sewer easement is used by the Project for surface parking that is accessed through the garage. The opening in the south façade that facilitates the parking also provides access to the sewer easement in the event that the sewer pipe requires maintenance or replacement. Except for landscaping and paved parking spaces, no amenities are located in the sewer easement.

iii. Impacts of Easements

These two easements limit the location of the building on the Site, insofar as the building cannot be moved further away from Route 9 to accommodate the front yard setback without encroaching into the sewer easement at the back (south) side of the Site. Similarly, the building cannot be moved closer to the eastern boundary without encroaching on the minimum side yard setback, or moved closer to the western boundary without encroaching on the setback and interfering with the access and traffic circulation from Route 9 entering the site and the garage.

4. Architecture

To assess the architecture and design, during the public hearing the Project density, height and bulk, and architectural details were reviewed.

a. Density

Based on the Assessor's "FY18 Residential" list, the median lot size in the single residence districts of the Town is 19,439 sf. Since the Zoning Bylaw allows only a single dwelling on a

lot, this implies that the median residential density in the residential districts is only 2.2 units/acre.

Based on information from the Planning Board staff, Wellesley has listed in its SHI 14 completed rental developments and eight completed ownership developments, for an overall total of 22 developments. The density of these developments ranges from a low of 0.4 units/acre at Wellesley Place (978 Worcester Rd) to a high of 39.9 units/acre at List House (315 Weston Rd). The median affordable housing development in Wellesley has a density of 23.8 units/acre.

Since the Project proposes 20 units on 0.46 acres, the density of the Project is 43.5 units/acre. Hence, in comparison to other Wellesley affordable housing projects, the Project density is not only significantly higher than the median project, its density is higher than any other affordable housing project that exists in Wellesley. When compared to the density of the median residential neighborhood, the Project represents a significant increase in density, from 2.2 to 43.5.

b. Height and Bulk

Under the terms of the Zoning Bylaw, the height of a building is measured from the average grade to the peak of the roof. For the Project, as revised at the conclusion of the public hearing, that height is 50 feet, 6.5 inches, approximately 112 percent higher than the height allowed in the SR-10 district. As noted above, the building is sited such that the western paved area is founded on a retaining wall that varies in height from 9.3 feet at the southwestern corner of the Site to near grade at the northwestern corner. Hence, when viewed from the west (starting at about the Oak Street intersection with Route 9) the apparent height of the Project will be nearly 60 feet. This western view is the one seen by approximately 23,000 eastbound cars on Route 9 each weekday, as well as the public that uses the adjacent NWCAC. At the 50 feet, 6.5 inch height, the building would be among the tallest in Wellesley, along with 50 Grove Street and the new Science Center at Wellesley College, each of which is sited on substantially more land than the Project.

The apparent height above actual grade when viewed from Stearns Road is also about 60 feet, although the Project will be seen from the south through trees that are growing on the vacant lot at 694 Worcester Road. When viewed from the north side of Route 9, the building's apparent height is 50 feet, though the residences there are screened by mature trees and, in some cases, fences.

The Applicant's original proposal was to construct four stories (three residential) that all occupied the entire building footprint, which was set 20' back from the easterly property line. There is an existing single-family dwelling that directly abuts that property line. The ZBA's architectural peer reviewer Clifford J. Boehmer testified that the monolithic four-story building, on that side, imposed too severe an impact on that neighboring single-family house. In response, the Applicant offered to step the third and fourth floor back from the easterly property line (the third floor approximately 15 feet from the second, and the fourth floor approximately an additional 30 feet), but further proposed to add a fifth floor over the newly stepped back fourth floor based on its perceived need to make up for lost floor area on the floors below. See Elevations Residential Level prepared by Grazado Velleco Architects, dated 11.14.17 and revised 1.28.19. The ZBA and its architect found that the need to step

back the third and fourth floors from the easterly property line (and the neighboring single-family house) to be a significant interest. Mr. Boehmer did not object to the inclusion of the proposed fifth floor. The proposed fifth floor brought the height of the building up to 60 feet, 4 inches, and would have made the Project the tallest building on Route 9 in Town, and the ZBA specifically found that this additional floor represented too significant a height increase for the Site relative to the surrounding buildings and uses.

When viewed from Route 9 or Stearns Road the apparent width of the building is approximately 160 feet. While this dimension is proportional to the frontage of the Site, this distance is perhaps five times wider than the neighboring homes. Overall the height and bulk of the building is significant when compared to the other single-family residential structures in the neighborhood or to the adjacent NWCAC.

c. Architectural Details

The front façade of the proposed building has an overall horizontal massing combined with a series of vertical elements. The first vertical feature is the entry, main lobby and individual residential level lobbies with generous glass openings in a brick form. The second vertical element is four window bay features at the front elevation. In order to emphasize the horizontal aspect of the building three layers of materials have been employed. As the building meets the ground, the base is brick veneer siding, followed by two levels of clapboard siding in two different colors capped by a belt course separating the second residential floor from the third residential floor with its flush vertical batten boards and parapet. The east façade continues the same pattern as the front façade, except that at the lowest level the brick veneer siding is replaced by the same clapboard as is used on the upper floors.

The west façade uses the same materials for the brick veneer vertical element, and continues the clapboard siding across the first and second residential floors, with the batten applied at the third residential floor.

The south façade employs the clapboard siding at the garage level, and at the lower two residential levels. There are no window bay features on the south façade. During the public hearing there was testimony from the ZBA's architectural peer reviewer and from abutters that while the Applicant had devoted significant attention to the architectural detail of the front façade facing Route 9, it had not provided the same attention detail or visual interest for this south façade. This façade faces the residential neighborhood along Stearns Road, and it was agreed that architectural revisions to provide a comparable level of detail as the north façade were warranted prior to issuance of any building permit.

The ZBA, and its architectural peer reviewer recognize that the Applicant has taken positive steps to mask and mitigate the bulk of the building through the use of articulation, and through architectural materials, colors and textures. Overall the ZBA found the height and bulk of the five-story iteration of the Project to be outrageous when compared to the other single-family residential structures in the neighborhood, to the adjacent 2.5 story NWCAC, and to other buildings on Route 9.

5. Transportation and Access

a. Site Access

Access to the Project will be provided by way of a single new curb cut and driveway at Route 9 at the western end of the Site. The drive is a full access driveway that will intersect the south side of Worcester Street approximately 465 feet east of School Street and 615 feet west of Francis Road. The drive will provide access to the front (west) entrance of the proposed residential building and will provide access to the at-grade parking garage beneath the proposed residential floors.

The ZBA's traffic peer reviewer testified that because the Project abuts state highway layout and since it proposes a new curb cut, a state highway access permit is required from MassDOT outside of the comprehensive permit process.

Vehicular traffic will turn right from Route 9, drive under the west wing of the proposed building, and then turn left into the garage. At its narrowest point, the drive is 19.5 feet wide from the building column to the concrete pedestrian walk at the front door, though the walk is flush with the driveway pavement. The drive provides access to: (i) two open air parking spaces at the west edge of the Site; (ii) two open air parking spaces beneath the west wing of the proposed building; (iii) the garage; and (iv) six open air parking spaces to the south of the building that are accessed through the garage.

Egress from the Site is via the same drive to Route 9.

The Applicant submitted turning radius diagrams for (1) AASHTO standard passenger car; (2) SU-30 (delivery vehicle); and (3) large ambulance to simulate traffic entering, exiting, and maneuvering on-site. The Applicant asserts that the turning diagrams demonstrate that traffic flow on the Site is safe. The ZBA's traffic peer reviewer requested turning diagrams for a WB-40 delivery truck (a common sized delivery truck larger than the SU-30), and the Applicant responded with a move-in management plan for the residents that limits move-in vehicles to the SU-30. When pressed for more information, the Applicant responded with a revision to the arrangement of the solid waste disposal area and the adjacent handicap parking, and the submittal of a turning radius diagram for a solid waste disposal truck that approximates a WB-40 vehicle. The Board's traffic peer reviewer reluctantly concluded that, while not an optimal design, the turning radius diagram demonstrated that the movement was technically feasible.

A representative of the Police Department testified at the hearing that the standard response to 911 emergencies is the dispatch of three vehicles, one ambulance, one fire truck and one police cruiser, and stated that in the event of emergency one or two of those vehicles would need to park on Route 9 because not all three could maneuver and park on the Site at the same time.

b. Public Transportation

Public transportation services are not provided within the immediate vicinity of the Site. However, public transportation services are provided to the Town by the Massachusetts Bay Transportation Authority via the Wellesley Square Station on the Framingham/Worcester Line of the commuter rail system (5-minute drive) and the Metro-

West Regional Transit Authority (MWRTA) bus Route 8 which provides three service stops through downtown Wellesley along Washington Street (approximately one mile). In addition, the MWRTA also operates Paratransit Services for passengers who meet ADA requirements and provides transportation services for seniors and the disabled through the Wellesley Council on Aging. In an effort to encourage the use of alternative modes of transportation to single-occupant vehicles, the Project includes the collection and distribution of educational materials to make new residents aware of the public transportation opportunities available to them as new residents.

6. Traffic and Parking

To assess the traffic impacts of the Project, the Applicant commissioned the "Transportation Impact Assessment" prepared by Vanasse & Associates, Inc. dated July 2018 (the "TIA"). The TIA was prepared in consultation with the Massachusetts Department of Transportation (MassDOT) and the Town; was performed in accordance with MassDOT's Transportation Impact Assessment Guidelines and the traffic review standards for a Project of Significant Impact as defined in the Zoning Bylaw; and was conducted pursuant to the standards of the traffic engineering and transportation planning professions for the preparation of such reports.

The TIA evaluated i) access requirements; ii) potential off-site improvements; and iii) safety considerations; under existing and future conditions, both with and without the Project. The ZBA engaged VHB/Vanasse Hangen Bruslin, Inc. to perform a peer review of the TIA, and VHB concluded that the information contained in the TIA is both technically accurate and portrays the likely impacts of the Project on the surrounding roadway system.

The findings of the TIA for vehicular traffic, including both roadways and intersections, and pedestrian traffic, are as follows:

a. Vehicular Traffic

Since all of the traffic ingress and egress to and from the site is from Route 9, without access to roadways of the Town, the only roadway assessed in the TIA is Route 9, and the intersections assessed include (1) Francis Road/Worcester Street; (2) Worcester Street Westbound U-turns; (3) Worcester Street Eastbound U-turns; and (4) Worcester Street/Oak Street/Westgate Road.

Using trip-generation statistics published by the ITE, the Project is forecast to generate approximately 108 vehicle trips on an average weekday (two-way, 24-hour volumes), with seven vehicle trips expected during the weekday morning peak-hour and nine vehicle trips expected during the weekday evening peak-hour.

The Project will not have a significant impact (increase) on motorist delays or vehicle queuing over existing or anticipated future conditions without the Project (no-build conditions), with the majority of the movements at the study intersections shown to operate at LOS D or better under all analysis conditions where an LOS of "D" or better is defined as "acceptable" operating conditions.

Independent of the Project, left-turn movements from the Worcester Street westbound

approach to the Worcester Street/Oak Street/Westgate Road intersection were identified as operating over capacity (defined as LOS "F") during both the weekday morning and evening peak hours, with Project-related impacts at the intersection defined as an increase in vehicle queuing of up to one (1) vehicle.

All movements exiting the Project driveway intersection with Route 9, the only access for the Project, are expected to operate at LOS D during the peak hours with negligible vehicle queueing predicted.

No apparent safety deficiencies were noted with respect to the motor vehicle crash history at the study intersections, with all of the study intersections found to have a motor vehicle crash rate that was below the MassDOT average crash rate.

Finally, lines of sight to and from the Site driveway were found to exceed the required minimum distance for the intersection to function in a safe manner.

In consideration of the above, the TIA concluded that the Project can be accommodated within the confines of the existing transportation infrastructure in a safe manner with implementation of the recommendations provided in the TIA.

b. Pedestrian Traffic

A comprehensive field inventory of pedestrian and bicycle facilities within the study area was undertaken in September 2017, consisting of a review of the location of sidewalks and pedestrian crossing locations along the study roadways and at the study intersections, as well as the location of existing and planned future bicycle facilities.

The TIA reports that a sidewalk is provided along the north side of Worcester Street and along the south side starting at 680 Worcester Street and continuing to the east, and along both sides of Westgate Road. Sidewalks are not provided along Oak Street, Francis Road, and marked crosswalks are not provided for crossing for study area intersections. An inventory of sidewalk conditions along the Project site frontage and within 600 feet of the Project site indicates that the sidewalks along Worcester Street are in fair to poor condition, with noncompliant Americans with Disabilities Act (ADA) wheelchair ramps provided at pedestrian crossings. MassDOT has indicated that there are plans to install sidewalks and granite curb along both sides of Worcester Street within the study area as a part of a future roadway improvement projects.

c. On-site Parking

On-site parking will be provided for 32 vehicles consisting of 23 parking spaces in a garage to be located beneath the proposed residential building, two open-air parking spaces located at the western edge of the access drive, two open-air parking spaces located beneath the western wing of the building, and five open-air parking spaces that are accessed through the garage, but located along the southern façade of the building.

Of the 23 parking spaces in the garage, 18 are located in three units of mechanical stackers, each planned to accommodate six passenger cars. Since the retrieval of a car from the second level requires moving the car beneath it, the Applicant reported that the over/under

2019
TOWN CLERK'S OFFICE
RECEIVED
17 P 12:02 PM
MAY 2020

stacker spaces would be assigned to units with two vehicles so that residents of a single unit would be in control of any vehicle movements, and no valet would be required.

For a twenty unit development, the proposed parking results in a parking ratio of 1.65 spaces per dwelling unit. This parking ratio is within the range of values documented by the Institute of Transportation Engineers (ITE) for an apartment community in a suburban setting.

7. Stormwater Management

The proposed drainage system consists of three parts. Runoff in the garage is collected in floor drains and directed to the sanitary sewer system. Runoff from the building roofs is collected and directed to an underground chamber for reinjection to groundwater. Finally, runoff from the drive area is directed to a catch basin near the entrance driveway, and flows to a second underground reinjection chamber.

Consistent with accepted engineering practice, the Applicant prepared and submitted the "Stormwater Management Report-680 Worcester Street" dated June 21, 2018 (the "Stormwater Report") that compared the runoff from the existing lot to the runoff from the Project. In addition, the Stormwater Report analyzed the stormwater management system to determine compliance with MassDEP Stormwater Management Policy.

The DPW, as the Board's stormwater peer reviewer, did not raise any major concerns in its memorandum regarding the Project. The Stormwater Report indicates that, in general, the Project will improve water quality and reduce peak runoff rates, and is in compliance with the Massachusetts DEP Stormwater Management Policy.

8. Utilities

The Site is serviced by municipal water and sewer. The electric, cable and telephone services are from an above ground pole located on the northeast frontage along Worcester Street. There is underground water and gas along the frontage as well. The sewer exits the Site in an existing easement from the easterly lot line. The sewer easement on the Site serves only the demolished existing house and does not provide service or potential for service to any other property. The sewer easement beyond the lot line contains a sewer main that runs through the rear yards of several adjacent homes and connects to the sewer main in Francis Road.

a. Water and Sewer

The Applicant has indicated that the Project will consume about 4,960 gallons of water and produce 4,510 gallons of sewerage per day. The initial assessment of the DPW is that the existing water infrastructure in Worcester Street Road is sufficient to meet the estimated need. The DPW recommended the sewer line be upgraded from the existing 6-inch clay line to a new 8-inch PVC line, noting that the 8-inch line is the municipal standard for commercial sewer mains. The Applicant's engineer has submitted a letter to the DPW stating that the capacity of the existing 6-inch sewer main is five to seven times the estimated need of the Project. The Board finds that the upgrade of the sewer line is not a capacity issue, but rather an operation and maintenance issue and accepts the DPW's

recommendation that the sewer line needs to be upgraded to an 8-inch PVC line to provide the same sewer service to the Project as is provided to other residents of Wellesley. .

b. Solid Waste

The Applicant shall ensure that all residents of the Project will collect their waste and dispose of it in the designated trash/recycling area located outside the garage level of the building in an enclosure for the waste containers. Waste will be collected from the exterior storage area by a private rubbish removal company engaged by the building management company. The collection will be scheduled at off peak hours so as not to impede any entering or exiting traffic from tenants/guests. Therefore, the Project will not adversely affect the Town's Recycling and Disposal Facility

c. Private Utilities

Natural gas, electric service, telephone service, and cable service can be provided on the same basis as to other residences in the Town.

9. Environmental Considerations

There are no identified wetlands located on the Site, and a Negative Determination of Applicability was issued by the Wellesley Wetlands Protection Committee for the Site on December 15, 2015, along with a determination that there were no jurisdictional resource areas or buffer zones on the Site. The Site is not known for flooding based on a review of DPW records.

Other than customary snow and ice control chemicals and fuel stored in the automobiles parked in the garage, storage of chemicals that would threaten groundwater or surface water is not part of the Project. The Site is not in a water supply protection district.

Exterior lighting is planned to be dark-sky compliant, and the submitted photometric plan demonstrates that light spill-over to adjacent properties is prevented.

10. Public Safety/Life Safety

During testimony at the public hearing, the Applicant stated that the building will be fully sprinklered.

The Applicant submitted vehicle access plans showing simulations of ambulance turning movements demonstrating that the ambulance could safely access and egress the Site. As noted above, the Chief of Police has notified that Board that the standard response to an emergency call is the dispatch of three vehicles, one ambulance, one fire truck and one police cruiser, and opined that in the event of emergency one or two of those vehicles would need to park on Route 9 because not all three could maneuver and park at the Site at the same time. It appears highly unlikely that residents of the Project will be able to enter or exit the parking area for the duration of any emergency response.

Fire vehicles and fire fighters will be able to access the building from Route 9. The Fire Department has not raised any concerns with the Project, but will review the final plans

2019 JULY 11 P
WELLESLEY MA
RECEIVED
TOWN CLERK'S OFFICE

prior to the issuance of any building permit for compliance with State Code.

11. Signage

The submitted drawings indicate two wall signs to identify the building. The first, showing the building address "680", is located on the Route 9 façade above the main entrance at the ground floor, and the second, showing "the Apartments at 680 Worcester Street", is located on the west façade just around the corner of the building from the first sign, and is also above the main entrance. No further details have been provided, so it is not yet known whether the sign complies with the other Zoning Bylaw requirements with respect to the area, height, illumination, and lettering of the sign.

The submitted drawings indicate that signage related to traffic and parking control on the Site will comply with the applicable standards of the Zoning Bylaw.

Disposition of Major Local Concerns

2016 JUL 17 P12:06
RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MA 02481

1. Health

The concerns expressed about health issues related principally to the DPW's recommendation that the existing 6-in. clay sewer pipe in the sewer easement be replaced with an 8-in. PVC pipe. The DPW estimates that the cut-and-cover replacement of the sewer pipe would cost \$71,000. While the Applicant's consultant based its argument on the capacity of the sewer pipe, showing through analysis that the sewer pipe had capacity in excess of that required for the proposed building, the DPW's expressed concerns relate to the operation and maintenance of the sewer pipe, for which the DPW is responsible. The DPW believes that the 6-in. clay pipe will require more operation and maintenance costs than the 8-in. PVC pipe. The Board is persuaded that depending on the existing 6-in. clay sewer pipe will mean that residents of the building will have a less reliable sewer service than the other residents in the Town, and that this lesser service is a health issue.

In considering this local concern, the ZBA finds that in order to have comparable sewer service as compared to the rest of the citizens of the Town, it is necessary to replace the 6-in. clay pipe with an 8-in. PVC pipe, and hence the local concern outweighs the regional need for low- and moderate-income housing.

2. Safety

The concern expressed for vehicular traffic has its roots in the small size of the lot relative to the building, the slope and sewer easements, and the concomitant inflexibility in the location of the building on the Site. While the assessments of the individual turning radius diagrams of the several vehicles studied show that the requisite turning movements are theoretically possible, no assessment was made of various scenarios that are both likely to occur and have safety impacts. Chief among these scenarios is the response to emergency calls, which the Town makes with three vehicles, one ambulance, one fire truck and one police cruiser. The Police Department testified that in such a scenario there is insufficient space on the Site for all three vehicles to park and maneuver, so that one or two of these vehicles would have to park on Route 9, a high speed, high volume state highway. No other property along the Route 9 corridor in the Town was found to have a similar parking

situation. Not only does this scenario place the Town's first responders in a hazardous position, it could be argued that the scenario also provides for the residents of the building a lower standard of care than that provided for other residents of the Town because the first responders cannot access those residents with the same speed as residents on other Route 9 properties in which on-site parking is available.

In considering this local concern, the ZBA searched for a condition or a set of conditions that would mitigate this concern. Because the slope and sewer easements constrain the footprint and location of the building (as described above), the only condition that the Board could find to mitigate the local concern was to free up space in the garage beneath the building or under the west wing of the building. The only way the Board could find to accomplish the creation of more space was to reduce the number of units, and thus to reduce the parking demand for the existing units, making it more likely that space would be available on the Site when an emergency occurred. Hence, the Board finds that the local concern outweighs the regional need for low- and moderate-income housing, and that a condition reducing the number of units to a number not to exceed eighteen (18) is appropriate.

3. Design

The concerns expressed about the design related to the bulk and mass of the building as described above. During the public hearing, the ZBA's architectural peer reviewer Clifford J. Boehmer testified that the monolithic four-story building, on the eastern side, imposed too severe an impact on that neighboring single-family house. In response, the Applicant offered to step the third and fourth floor back from the easterly property line (the third floor approximately 15 feet from the second, and the fourth approximately an additional 30 feet), but further proposed to add a fifth floor over the fourth based on its perceived need to keep the unit count at twenty. The ZBA and its architect found that the need to step back the third and fourth floors from the easterly property line (and the neighboring single-family house) to be a significant interest. The ZBA further found that the fifth floor, which brought the height of the building up to 60 feet, 4 inches, represented too significant a height increase for the Site relative to the surrounding uses. While the ZBA notes that the Applicant responded in accordance with the peer review comments, the western end of the building sits atop a 10 foot high retaining wall, making the apparent building height from that side approximately 70 feet overall.

Nonetheless, the ZBA finds that the height of the building at 50.5 feet is consistent with the discussions of building height and mass, as well as being consistent with other multi-family residential and college buildings in the Town. Further, the ZBA finds that the step backs described above are an appropriate response to the architectural comments and the height of the building at 50.5 feet is a balance between the local concerns and the regional need for low- and middle-income housing. While it is not clear to the ZBA what number of dwelling units, or what distribution of dwelling units (between one-, two- and three bedrooms) the current building will allow for, a reasonable estimate, assuming a mix of one-, two- and three-bedroom units, appears to be approximately eighteen (18), and the ZBA finds that such a unit count is consistent with both the safety analysis and the design analysis.

Waivers

The Applicant submitted a final list of requested waivers from the Town's bylaws, rules and regulations dated February 6, 2019. The ZBA acted on this specific list of requested waivers as follows:

A. Zoning Bylaws:

1. Section IIA. Single Residence Districts. The Applicant seeks a waiver of the use requirements of the Single Residence District to allow for the construction of a multi-family use, which is not allowed in the district. The ZBA balanced the regional need for low- or moderate-income housing against the local concern for single family residences, and finds that the regional need for low- or moderate income housing outweighs the local concern that this particular land be used for single family residences. However, the ZBA further finds that the Applicant's proposed building is too large for this 0.46 acre parcel. The ZBA therefore grants a waiver to allow for a multi-family rental development on this Site subject to all of the conditions set forth below, without specifically approving the number of dwelling units originally proposed by the Applicant.

2. Section XVI. Restrictions Affecting All Districts. The Applicant seeks a waiver of this section to allow for the construction of a multi-family use that is not allowed in the district. The ZBA grants the requested waiver to allow for a multi-family rental development with parking and appurtenances as shown on the Approved Plans as modified by the conditions set forth below. With respect to the specific requirements of this section, the ZBA finds that the Project complies with Sections XVI §§(A) through (C), and §§(G) through (I); the ZBA grants the procedural request to waive §(D)(4) to allow for the parking of an office trailer and a storage trailer on the Site during the period of construction of the Project only; the ZBA grants the procedural request to waive §(E) to the extent that the Comprehensive Permit procedure replaces the project approval process specified in Section XVIA and the special permit process specified in Section XXV; and the ZBA denies the waiver request in part by finding that, consistent with §(F), construction shall not start unless and until the Comprehensive Permit has been perfected, the Subsidizing Agency has granted final approval, and the Regulatory Agreement has been recorded at the Registry of Deeds. The ZBA waives any bonding requirements of §(F).

3. Section XVIA. Project Approval. The ZBA grants a waiver of the requirement that the Project obtain design review, site plan review, and a Project of Significant Impact Special Permit. The ZBA notes that the subjects normally addressed in these reviews were reviewed as part of the ZBA's public hearing on the comprehensive permit application.

4. Section XVIC. Drainage Review. The ZBA grants a waiver of the requirement that the Project undergo separate drainage review pursuant to this section of the Zoning Bylaw. Notwithstanding the foregoing, the ZBA notes that the drainage was reviewed as part of the ZBA's public hearing on the comprehensive permit application.

5. Section XVIE. Tree Protection & Preservation. The ZBA waives the requirements of this section of the Zoning Bylaw; provided, however, that a waiver of the conditions

contained in this section requiring maintenance of replanted or new trees in §(F)(4) is denied.

6. Section XVIIIB. Ratio of Building to Lot Area. The ZBA reviewed the actual ratio of building to lot area and finds that the regional need for low- or moderate income housing outweighs the local concern for the ratio of building to lot area. Therefore, the ZBA grants a waiver of the required ratio of 0.25 to allow for an actual ratio of 0.38 as shown on the Approved Plans.

7. Section XX. Heights of Buildings or Structures. The ZBA reviewed the actual building height and compared it to the allowed height of 45 feet, and found that the local concern for building height would have compelled the denial of the Applicant's proposed 5-story building, which it voluntarily withdrew during the hearing. The local concern for building height allows for a 4-story proposal with a maximum building height (not including the small projection for the elevator mechanicals) of 50' 6.5", provided that adequate step-backs of the second and third residential floors are provided. Therefore, the ZBA grants a waiver of the maximum building height to allow for an actual building height of 50' 6.5" (based on the average finished grade of 148.2) and 4 stories as shown, subject to the conditions included herein.

8. Section XXI. Off Street Parking. The ZBA grants a waiver of the requirements of Section XXI so as to allow for the construction of resident parking spaces, guest parking spaces, and maneuvering aisles as shown on the Approved Plans. The ZBA finds that maneuverability and access are not ideal, but have been found by its traffic consultants to just satisfy accepted industry practice.

9. Section XXII. Design Review. The ZBA grants a waiver of the requirement for separate review by the Design Review Board for this Project. The ZBA notes that subjects normally addressed during Design Review were reviewed as part of the ZBA's public hearing on the comprehensive permit application.

10. Section XXIIA. Signs. The ZBA grants a waiver of Section XXIIA with respect to the location of the signs shown the Approved Plans (as defined below). The Applicant did not present any dimensions, depictions, or renderings of any signs associated with the Project as part of its application, therefore no further waiver is granted with respect to the Town's regulations regarding signs.

11. Section XXIID. Retaining Walls. The Applicant has requested a waiver to allow for a retaining wall with a 0' setback from the easterly property line and with a maximum height of up to 9' 6". The ZBA grants the waiver to the extent that its action on this Comprehensive Permit shall obviate the need to apply for any special permit under Section XXIID, and authorizes, as a matter of zoning, the retaining wall as shown on the Approved Plans. The ZBA notes that nothing contained in this decision affects any applicable requirement of the State Building Code.

B. Other Rules and Regulations.

12. Rules and Regulations for Tree Preservation and Protection. The ZBA grants a

2019
JULY 12
WELLESLEY'S OFFICE
IOWA CITY IA 0210

procedural waiver of the need for separate review under these rules and regulations. Landscaping has been reviewed and approved by the ZBA through M.G.L. c.40B comprehensive permit process in accordance with State law and regulations.

13. DPW Municipal Stormwater Drainage System Rules and Regulations. The ZBA grants a waiver of the need for separate review by the DPW. Stormwater management has been reviewed by the ZBA during the M.G.L. c.40B Comprehensive Permit process and is approved as shown on the Approved Plans.

14. DPW Sewer Rules and Regulations. The Applicant has requested a waiver of the DPW's Sewer Rules and Regulations so as to allow the Project to be served by retaining the existing 6" clay sanitary sewer line that exists at the Site. The Wellesley Town Engineer testified that the standard sewer main for a new commercial project of this type is an 8" PVC main. Based in the evidence in the record, the ZBA determines that the local concern for having adequate sewer capacity and a properly constructed, new sewer main to serve this new multi-family rental project requires that waiver request be denied.

* * * * *

The ZBA grants only the specific waivers itemized above. If it appears after issuance of this Comprehensive Permit that any additional waiver is needed, the Applicant shall be required to seek the approval of the ZBA.

Conditions to the Comprehensive Permit

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MA
2019 JUL 17

The ZBA's approval of the Comprehensive Permit for the Project is subject to the Applicant's and the Project's compliance with the following conditions. All requirements imposed by these conditions or this Comprehensive Permit shall be applicable to the Applicant, its successors and assigns, and all tenants and residents of the Project, regardless of whether the condition specifically identifies the Applicant or no entity as having responsibility for a particular condition.

General

1. This Permit authorizes the construction, use and occupancy of a building as shown on the Approved Plans (listed and defined in Condition 2) below, with the following required modifications:

- a. The Building shall have a maximum height of four stories and 50 feet, 6.5 inches from the average grade. This maximum height shall not apply to the projection above the roofline for elevator mechanicals as shown on the Approved Plans.
- b. The third floor (second residential floor) shall be set back 35' from the easterly property line of the Site and shall have the dimensions depicted on Sheet A3 of the architectural plans labeled "Elevations Residential Level" prepared by Grazado Valleco Architects dated 11.14.17 and revised 1.28.19.

c. The fourth floor (third residential floor) shall be set back 65' feet from the easterly property line of the Site, and shall have the dimensions depicted on the Sheets A4, A7-A9 of the architectural plans labeled "Elevations Residential Level" prepared by Grazado Valleco Architects dated 11.14.17 and revised 1.28.19.

d. There shall be no fifth (fourth residential) floor.

2. Except for revisions noted in Condition 1, or as may be further conditioned below, the Project shall be constructed in accordance with the following plans and written materials:

Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
C	Cover Sheet	6/29/18	James A. Velleco, R.A.	1/28/19
A1	Grade Garage Level	6/29/18	James A. Velleco, R.A.	1/28/19
A2	First Residential Level	6/29/18	James A. Velleco, R.A.	11/14/17, 1/28/19
A3	Second Residential Level	6/29/18	James A. Velleco, R.A.	11/14/17, 1/28/19
A4	Third Residential Level	6/29/18	James A. Velleco, R.A.	11/14/17, 1/28/19
A5	North and East E elevations	5/22/11	James A. Velleco, R.A.	11/14/17, 1/28/19
A6	South and West E elevations	5/22/17	James A. Velleco, R.A.	11/14/17, 1/28/19
A5	Fourth Residential Level	1/28/19	James A. Velleco, R.A.	11/14/17, 1/28/19
A6	Roof Plan Residential Level	1/28/19	James A. Velleco, R.A.	11/14/17, 1/28/19
A7	Elevations Residential Level	11/14/17	James A. Velleco, R.A.	1/28/19, 5/21/19
A8	Elevations Residential Level	11/14/17	James A. Velleco, R.A.	1/28/19
A9	Sketch A	1/28/19	James A. Velleco, R.A.	
	Photosimulation – Front Elevation			
C1	Survey Plan	5/9/16	Thomas F. Winslow, PLS	11/14/17, 4/5/18, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19

C2	Existing Conditions Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C3	Layout Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/11/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C4	Vehicle Access Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19
C4A	Vehicle Access Plan	5/9/16	Hayes Engineering	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C4B	Vehicle Access Plan	5/9/16	Hayes Engineering	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C4C	Vehicle Access Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C5	Grading Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19

C6	Utility Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C7	Detail Sheet	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C8	Detail Sheet	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C9	Detail Sheet	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
WSE	Existing Watershed Map	6/12/18	William R. Bergeron, P.E.	
WSP	Proposed Watershed Map	5/9/16	William R. Bergeron, P.E.	11/14/17
L1	Landscape Plan	5/9/16	James K. Emmanuel, RLA	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/14/19, 3/5/19, 3/7/19
C1	Context Map Stearns Road and Worcester Road	10/10/18	Hayes Engineering	10 JUL 1 2018 TOWN CLERK'S OFFICE WELLESLEY MA 02482
C1	Context Map Stearns Road and Worcester Road	10/10/18	Hayes Engineering	10 JUL 1 2018 TOWN CLERK'S OFFICE WELLESLEY MA 02482
	16 Stearns Road and 680 Worcester Street Shadow Study Diagram – Summer Solstice – June 21 – 6:40 am, Noon, 5 pm			10 JUL 1 2018 TOWN CLERK'S OFFICE WELLESLEY MA 02482

	16 Stearns Road and 680 Worcester Street Shadow Study Diagram – Autumnal Equinox (Spring Similar) – September 22 – 8 am, Noon, 3:30 pm			
	16 Stearns Road and 680 Worcester Street Shadow Study Diagram – Winter Solstice – December 22 – 9:10 am, Noon, 2:10 pm			1 2019 JUL 17 P 12:06
	680 Worcester Street Shadow Study Diagram – Summer Solstice – June 21 – 6:40 am, Noon, 5 pm			RECEIVED TOWN CLERK'S OFFICE WELLESLEY MA 02482
	Shadow Study Diagram – Autumnal Equinox (Spring Similar) – September 22 – 8 am, Noon, 3:30 pm			
	Shadow Study Diagram – Winter Solstice – December 22 – 9:10 am, Noon, 2:10 pm			
H1	Design Phase Height Comparison	11/12/18	Grazado Velleco Architects	
H2	Design Phase Height Comparison	11/12/18	Grazado Velleco Architects	
H1	Height Comparison Along Worcester Street	3/1/19	James A. Velleco, RA	
H2	Height Comparison 2 at Worcester St	3/3/19	James A. Velleco, RA	
	Photosimulation – Looking west on Route 9 – Proposed Structure			

Retaining Wall at West Elevation (undated/submitted April 24, 2019)

Retaining Wall at South Elevation (undated/submitted April 24, 2019)

Transportation Impact Assessment—Proposed Residential Development 680 Worcester Street (Route 9) Wellesley, Massachusetts prepared by Vanasse & Associates, Inc. June 2018 (Updated per letter of September 26, 2018).

Storm Water Management Report #680 Worcester Street Wellesley, Massachusetts dated June 21, 2018.

680 Worcester Street, Wellesley MA Proposed Trash/Recycling Narrative
(collectively, the “Approved Plans”).

3. This Permit authorizes construction and use of no more than eighteen (18) dwelling units.¹

4. All dwelling units approved under this Comprehensive Permit shall be rental units.

5. At least twenty-five percent (25%) of the dwelling units in the Project shall be reserved in perpetuity as Low or Moderate Income Housing restricted for lease and occupancy by Income Eligible Households as these terms are defined in 760 CMR 56.02. At least twenty-five percent of each apartment type (one-, two- and three bedrooms) shall be Low or Moderate Income Housing. The initial rents of the Affordable Units shall be established by the Subsidizing Agency.

6. The Project shall contain a maximum of 32 parking spaces as shown on the Approved Plans. Notwithstanding the foregoing, the 32 parking spaces shown on the Approved Plans were provided to serve the 20 dwelling units originally proposed by the Applicant. The ZBA encourages the Applicant to proportionately reduce the number of parking spaces provided on Site to correspond to the 18 (or other number) of units that are actually constructed, and to use the area previously devoted to any eliminated parking spaces to provide for improved vehicle maneuvering on Site.

7. There shall be no parking on the internal Site driveways, outside of designated parking areas shown on the Approved Plans, and no parking by residents or guests of the Project outside of the Site on Route 9 or any other street. All paved area under the building that is not devoted to parking spaces shall be painted or marked as “Fire Lane/No Parking.”

8. Locations of signs identifying the development shall be limited to those shown on the Approved Plans.

¹ As noted in the Findings of Fact, the Applicant could not precisely state at the last session of the public hearing how many dwelling units it could place within the proposed building, and declined to offer an extension of time to conduct the public hearing for purposes of providing more information on this subject. It is not clear to the ZBA what number of dwelling units, or what distribution of dwelling units (between one-, two- and three bedrooms) the current building will allow for, but a reasonable estimate, assuming a mix of one-, two- and three-bedroom units, appears to be approximately eighteen (18).

9. There shall be no pavement added to the Project beyond that which is depicted on the Approved Plans and there shall be no additional accessory structures added to the Project or to the Site other than what is shown on the Approved Plans.

10. All utilities shall be installed underground (with the exception of junction boxes, transformers and similar appurtenances) by the Applicant using methods standard to those installations. Utilities shall include electric service lines, gas service, telephone lines, water service lines, CATV lines, municipal conduit, stormwater management systems, and the like.

11. The water, wastewater, drainage, and stormwater management systems servicing the buildings shall be installed and tested in accordance with applicable Town standard requirements and protocols.

12. The stormwater design shall function consistent with the Approved Plans, as revised, and with the Stormwater Report, prepared by Hayes Engineering dated June 21, 2018.

Submission Requirements—Prior to Commencement of Any Construction Activity

13. No construction activities for the Project shall commence on the Site until the Applicant has submitted evidence that it is in good standing with the Corporations Division of the Secretary of the Commonwealth's Office.

14. No construction activities for the Project shall commence on the Site until the Applicant has submitted to the ZBA a narrative description of the final unit count, unit distribution (of one-, two- and three bedroom units), and floor plans showing the layout and size of those units within the Building.

15. No construction activities for the Project shall commence on the Site until the Applicant has obtained Final Approval of its Subsidizing Agency and presented evidence of same to the Building Inspector.

16. No construction activities for the Project shall commence on the Site until the Applicant has recorded at the Norfolk Registry of Deeds copies of this Comprehensive Permit and the Regulatory Agreement for the Project and delivered certified recorded copies of the Regulatory Agreement and Monitoring Services Agreement to the Building Inspector.

17. No construction activities for the Project shall commence on the Site until the Applicant has properly marked the limits of disturbance around the Site. The Building Inspector shall inspect the Site after such marking prior to any disturbance.

18. No construction activity shall commence until the Applicant has obtained final approval for the curb cut as shown on the Approved Plans from the Massachusetts Department of Transportation. Given the considerable attention paid to the curb cut and site access from Route 9 during the public hearing, any change to the curb cut as shall require the approval of the ZBA.

19. No construction activities for the Project shall commence on the Site until the Applicant has submitted to the Building Inspector a revised Construction Management Plan and Construction Management Schedule (CMP) as necessary to conform to accepted industry practice and to address all construction-related conditions specifically set forth below in this Comprehensive Permit. Without limiting the foregoing, the CMP shall include:

- a. Construction schedule in order to provide guidance and facilitate inspections.
- b. Trucking plan, which shall specify planned truck routes, estimated volumes of any imported and exported materials, estimated truck trips and construction period mitigations measures consistent with the conditions set forth herein, including without limitation details and locations of crushed stone entrance pads, street sweeping protocols and dust control measures.
- c. Construction administration (hours of construction, deliveries, trash and debris removal).
- d. Communication (designated contacts on site).
- e. Noise and dust control.
- f. Controlled blasting schedule (if any).²
- g. Erosion control.
- h. Groundwater management, surface water management, and dewatering.
- i. Dewatering.
- j. Identification of existing underground utilities.
- k. Construction staging (staging areas, trailer locations, open storage areas, deliveries, truck holding locations), which shall be sufficient to ensure that there is no vehicle queuing, idling, parking or staging on Route 9 or any other streets under any circumstances.
- l. Traffic and parking during construction, including arrangements for off-site parking by all workers and shuttling to and from the off-site location (subject to the requirements otherwise contained herein).
- m. Location of trailers, dumpsters, and restrooms.

12:07 PM JUL 17 2014
JOHN CLARK, CLERK
WELLESLEY, MA 02481

² The Applicant did not discuss controlled blasting for this Site in its application or during the public hearing, and the ZBA therefore does not anticipate that any will occur during construction.

20. The CMP shall be included or incorporated by reference in the general construction contract and all sub-contracts, and compliance with its terms shall be a contract condition for all contractors working at the Site.

21. No construction activities shall commence for the Project until the Applicant has created a website or adapted an existing website, to provide Town officials and residents access to the most current scheduled activities and to provide notification of upcoming Project events that reasonably have the potential to impact the surrounding neighborhood. Such scheduled activities shall be shown in a two-week or three-week (whichever the Applicant normally uses in its project planning and construction management) look-ahead schedule that shall be updated not less than bi-weekly, and such notifications shall be posted not less than 14 calendar days prior to the referenced events. In addition to the website, the Applicant shall establish a telephone number for receiving and responding to questions or concerns expressed by residents of the Town concerning the project construction activities or compliance with the Comprehensive Permit. The number will be provided to Town officials, posted at the Site in a conspicuous location visible to the public, and published once in the Wellesley Townsman prior to or concurrent with the start of construction. The Applicant shall provide written notice to the Building Inspector that this website is up and running. The Applicant shall maintain this website throughout the term of construction for the Project, and update it regularly as schedules change.

Submission Requirements—Prior to Issuance of a Building Permit

22. The Applicant shall install a new 8 inch PVC sewer line from the Project to the main in Francis Road. The design and specifications of the sewer line, and all work associated with the installation, shall be subject to the review and approval of the Town of Wellesley DPW. The ZBA notes that the DPW has specifically requested this improvement be required in connection with this Project, and expects that the DPW will work with the Applicant to facilitate the installation of the new sewer line.

23. During design development and the preparation of construction documents, the Applicant shall revise the south elevation of the building (facing Stearns Road) to provide for a level of detail and visual interest comparable to the north elevation of the building; these revisions may include, without limitation, the use of differing materials and color schemes for the different facets.

24. The Applicant shall provide to the Building Inspector evidence that it has secured an off-site location (or locations) that is sufficient to provide parking for all construction workers associated with the Project, and that the use of said off-site location for this type of parking is an allowed use of the selected property under the applicable zoning bylaw. The off-site location shall not include any public parking lots.

25. No building permit shall issue until the Applicant has prepared subsequent detailed design development and construction drawings (including without limitation civil, structural, mechanical, electrical, landscaping and architectural plans) that have been revised in accordance with the terms of the Conditions of Approval, and said construction drawings have been reviewed and approved by the Building Inspector and others as specifically provided for below, solely for consistency with this Comprehensive

Permit:

- i. Revised stormwater plans shall be submitted to the Town Engineer for review to confirm consistency of such plans with the Approved Plans;
- ii. Detailed plans of the following utilities and services shall be prepared in accordance with all applicable regulations and requirements and shall be submitted for review and approval by the listed authorities prior to endorsement of the final plans:
 1. Water mains - Town of Wellesley DPW;
 2. Fire hydrant locations -Town of Wellesley Fire Chief;
 3. Primary and secondary electrical cables including distributions boxes and transformers – Wellesley Municipal Light Plant & Wiring Inspector;
 4. Telephone cables and street lighting - Wiring Inspector.

The Applicant shall submit with the subsequent detailed design development and construction drawings provided for herein an itemization of all revisions to the Approved Plans and a certification from the Engineers of Record that these plans fully incorporate all requirements of these conditions as set forth herein.

Conditions on Construction

26. Site work and construction shall be restricted to the hours between 7:00 am and 5:00 pm, Monday through Friday and between the hours of 8:00 am and 4:00 pm on Saturday. There shall be no construction on Sundays, or on state or federal holidays. Additionally, construction vehicles and/or equipment shall not be started or operated prior to, or after the times stated herein. For this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; 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 the erection of new structures.

27. There shall be no queuing, idling, parking or staging of construction vehicles, construction worker vehicles, or delivery vehicles on Route 9, or any other street, under any circumstance.

28. Erosion control shall be employed on the Site to stop erosion during construction and prevent sedimentation from entering the abutting public ways and adjacent wetland areas.

29. During construction, the Site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner.

30. The Applicant shall regularly remove construction trash and debris from the Site in accordance with good construction practice.

31. All potential safety hazards that may exist on the Site from time to time during the period of construction shall be adequately secured prior to the end of each workday.

32. The Applicant shall implement measures to ensure that noise from Project construction activities does not exceed permissible regulatory levels, including without limitation, DEP's noise regulations at 310 CMR 7.10 and noise pollution policy interpretation.

33. During construction the Applicant shall ensure that dewatering activity does not create (a) offsite issues or (b) problems for the proposed stormwater recharge system.

34. The Applicant shall be permitted to remove and/or replace earth from the Site incidental to the construction of the residential building, the construction of the drainage and underground infiltration system and the construction of the roadway and utility infrastructure as shown on the Approved Plans. Hours of operation for earth removal shall be 7:00 am - 5:00 pm, Monday through Friday; there shall be no hauling on Saturday or Sunday.

35. The Applicant may locate trailers on the Site during construction activity only. During construction all trailers, dumpsters, and portable restrooms shall be placed within the Site so as to not impact the residential abutters.

36. The Applicant shall maintain all portions of any road used for construction access free of soil, mud or debris due to use by construction vehicles associated with the Project. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.

37. A temporary construction sign no greater than twenty (20) square feet in size may be erected on the Site at the time of issuance of a building permit. This sign shall list the website required above and include contact information.

38. No construction workers or contractors may park on Route 9, on any other street, or on the Site, during construction. The Applicant shall arrange for adequate off-site parking for all of the construction workers/contractors that will work on this Site, and shall be responsible for ensuring that all construction workers/contractors park at this off-site parking location. This off-site parking location shall not include any public parking lots. The Applicant shall arrange for workers to be shuttled between the off-site parking location and the Site.

39. Any idling of vehicles on the Site shall be limited to five minutes or less in accordance with M.G.L. c.90, §16A, and the Applicant shall post clearly visible signage on the Site, to be maintained for the duration of the construction period, noting this requirement. As stated in Condition 27, there shall be no idling whatsoever on Route 9 or any other street.

40. Construction shall conform to all applicable local, state and federal laws and regulations regarding noise, vibration, dust and sedimentation, use and interference with Town roads.

41. The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation DEP's dust regulations at 310 CMR 7.09, as amended, as directed by the Building Inspector. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by Federal and State regulatory agencies.

42. The Applicant shall, upon advance notice, permit Town and Board members, agents, and representatives to observe and inspect the Site and construction progress until such time as the Project has been completed.

43. The Applicant shall notify the relevant Town departments of installation of utilities and infrastructure for inspections prior to backfilling.

44. Upon completion of the Project, soil material used as backfill for pipes, access drives, infiltration beds, and other underground drainage structures shall be certified by the Engineer of Record to the Building Inspector as meeting design specifications.

45. The Project shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.0 et. seq), except as may be waived, in accordance with applicable law and regulation.

46. The ZBA notes that Jay J. Derenzo, a principal in the Applicant 680 Worcester Road, LLC has, through another entity 16 Stearns Road LLC, proposed to construct a separate project pursuant to M.G.L. c.40B, §§22-24 at nearby property located at 16 Stearns Road. There shall be no use of the Site whatsoever to support any site work, construction activity or administration, parking, or vehicle, equipment or materials storage associated with property located at 16 Stearns Road, or vice versa.

Legal Requirements

47. The Applicant has proposed, and the ZBA hereby requires, that the following common facilities and services of the Project, to the extent located on the Site, shall be and shall remain forever private, and that the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same:

- a. All internal site drives, walkways and parking areas;
- b. Stormwater management system, including the maintenance of catch basins, infiltrator units, bio-swales, underground infiltration structures and the like;
- c. Snow removal;
- d. Landscaping and landscape maintenance;
- e. Trash removal;
- f. Water system within the Site for both domestic use and fire protection, including hydrants; and
- h. Wastewater infrastructure within the Site with the exception of the Town sewer main located within the sewer easement.

The common facilities referred to above shall be maintained in perpetuity by the Applicant.

48. The Applicant shall either arrange itself, or contract with a qualified management company, for the maintenance and repair all common areas and facilities, including the

stormwater management system, wastewater disposal systems, landscaping, and other improvements within the Site.

49. The Applicant shall assure that the proper conditions are included in the unit leases to address the following:

- a. To the extent permitted by law, there shall be no conversion of interior space into additional bedrooms.
- d. Trash and recycling receptacles shall be stored inside the designated area shown on the Approved Plans except during collection.
- e. All Town bylaws and regulations concerning home-based businesses shall be applicable to the units.
- h. Pet waste shall be picked up on the Site and disposed of in the toilet or trash receptacle.
- i. The storage, use and disposal of any household hazardous wastes shall be properly and safely conducted.
- j. There shall be no rentals of the market rate dwelling units for terms shorter than twelve (12) months; any rentals of affordable units shall comply with the terms of the Regulatory Agreement and Deed Rider.

50. All necessary easements shall be granted by the Applicant where required by public utility companies or the Town. The aforementioned easements shall be recorded in a timely manner and shall be submitted to the Building Inspector prior to occupancy.

51. All landscaping required by this Permit shall be guaranteed for a period of twelve (12) months by the Applicant. The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period. Verification of the dates of planting must be submitted to the Building Inspector.

52. This Comprehensive Permit and Regulatory Agreement shall be recorded at the Norfolk Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of record and existing mortgages.

53. If at any time during construction, the Building Inspector, Town Engineer or the ZBA determines that a violation of the Approved Plans or this Comprehensive Permit has occurred, the Town, through the Building Inspector or the ZBA, shall notify the Applicant and the Applicant shall be given thirty (30) days (or lesser time period if in the sole opinion of the Town that said violation creates an emergency condition) to rectify said violation or construction activities shall be ordered to cease until the violation is corrected.

Affordability Requirements

54. Twenty five percent (25%) of the total units in this development shall be available in perpetuity for rent and occupancy by low and moderate income households as defined in DHCD's regulations (the "Affordable Units").

55. A Massachusetts Housing Finance Agency Regulatory Agreement for either Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or for the Housing Starts Program or a regulatory agreement with

another qualifying subsidizing agency, shall be executed prior to the issuance of the Building Permit for the Project. This Regulatory Agreement shall set forth the terms and agreements relative to the rental of the Affordable Units in the development. The Regulatory Agreement and Monitoring Services Agreement shall be submitted to the Building Inspector prior to its recording.

56. Given that 25% of the total units in the Project must be Affordable Units in perpetuity, it is further a requirement that the project shall always be subject to a suitable regulatory agreement. Therefore prior to the expiration of the initial Regulatory Agreement with the Subsidizing Agency, the Applicant shall execute and record a successor Regulatory Agreement and Monitoring Services Agreement, to be approved by Town Counsel, for the period after the expiration of the term of the affordability restrictions imposed by the Subsidizing Agency. The Applicant shall enter into this second Regulatory Agreement and Monitoring Services Agreement with the Town and the Monitoring Agent, which shall continue the affordability restrictions imposed by the Subsidizing Agency and this Comprehensive Permit. Such agreement shall be consistent with the terms of this Comprehensive Permit. The Applicant shall retain the Town or a consultant designated by the Town as the Monitoring Agent for this development for the period after the expiration of the term of the affordability restrictions imposed by the Subsidizing Agency. All costs associated with monitoring for consistency with the Regulatory Agreement shall be borne by the Applicant.

57. Upon the effectiveness of the successor regulatory agreement referred to above, rents for the Affordable Units shall continue to be restricted in accordance with the applicable rules, regulations, and guidelines of the Subsidizing Agency (or its successor agency) that existed prior to the expiration or termination of the previously effective regulatory agreement, as if it were still in force and effect. To the extent that the Subsidizing Agency (or its successor agency) has ceased to promulgate such applicable rules, regulations, and policies, then the rent for the Affordable Units shall be determined based on substitute regulations of a federal or state governmental agency providing subsidies for low or moderate income housing as shall be reasonably determined by the Applicant and the Town, in order to ensure the continued availability of the Affordable Units for the purposes set forth herein and in the Comprehensive Permit for the entire term of the agreement. Further, if M.G.L. c.40B (or its successor statute) still provides a mandate for municipalities to provide low or moderate income housing, the Applicant shall continue to operate and manage the Project as would permit the Project to be credited toward the Town's Subsidized Housing Inventory for purpose of Chapter 40B.

58. To the maximum extent permitted by law, and applicable regulation local preference for the occupancy of seventy percent (70%) of the Affordable Units shall be given to residents of the Town satisfying all applicable eligibility requirements. For the purpose of this condition, and subject to any legal requirements, "residents of the Town" shall, to the extent not otherwise prohibited or limited by the provisions of relevant governing regulations or requirements, include, but not be limited to, the following: current Wellesley residents; employees of the Town, Wellesley Public Schools; and members of the household of children attending the Wellesley Public Schools. This Condition shall be enforceable only to the extent the local preference requirement set forth herein is approved by the Subsidizing Agency based on information that the Town shall be responsible to provide in accordance with the requirements of DHCD set forth in its Chapter 40B Guidelines.

59. The Affordable Units shall have similar amenities as the market-rate units and the Subsidizing Agency shall approve the distribution of the Affordable Units throughout the Project.

Miscellaneous

60. Enforcement of the conditions of this decision shall be by the Building Inspector or the ZBA to the extent permitted pursuant to the terms of M.G.L. c.40B, §§20-23 and 760 CMR 56.

61. No portion of the building, footings, foundation, or any other structure shall encroach into the Town's sewer easement.

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

- a. Submit to the Department of Public Works (DPW), in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all utilities, roadway, sidewalk and associated construction, and stormwater management systems. The file format shall be in accordance with the DPW's requirements. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered to the specifications of the DPW, in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet or Meters, as required by the Town.
- b. Submit to the Building Inspector as-built plans for all buildings in the Project.
- c. Complete all items on the Department of Public Works' site construction punch list.

63. The Applicant shall pay all permit application fees normally charged by the Town.

64. This Permit is granted to the Applicant and, prior to substantial completion of the Project, this Comprehensive Permit may not be transferred or assigned to any party without approval of the Subsidizing Agency and notice to the ZBA, as required by 760 CMR 56.05(12)(b). The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the Applicant and the successors and assigns of the Applicant, and the obligations contained herein shall run with the land. In the event that the Applicant sells, transfers, or assigns a portion or all of its interest in the development, this Comprehensive Permit shall be binding upon the purchaser(s), transferee(s), or assignee(s) and any successor purchasers, transferees or assignees.

65. Any and all references to the "Applicant" herein shall include any authorized successors or assigns of the Applicant, including, but not limited to, all individual unit tenants. The terms, provisions and conditions of this Permit shall burden and benefit

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MASS.
JUL 7 2007
P2:07

the successors and assigns of the Applicant with the same effect as if mentioned in each instance where the Applicant is named or referred to.

66. Any changes to the Project must be reviewed by the ZBA in accordance with the procedure set forth in 760 CMR 56.05(11).

67. The Applicant shall comply with all local regulations and bylaws as of the date of this Permit, except for those which are specifically waived in accordance with the Exceptions granted in "Waivers" section above or as otherwise expressly set forth in this Decision.

68. This Permit shall become void if the Applicant does not commence with development of the Project as approved herein within three (3) years of the date this Permit becomes final, in accordance with 760 CMR 56.05(12). Commencement of development shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under that permit. The ZBA may grant extensions for good cause.

69. All construction of the Project shall be completed within four (4) years from the date of issuance of the building permit unless a request is filed with, and approved by, the ZBA extending such time.

70. If any provision of this Comprehensive Permit or portion of such provision or the application thereof to any person or circumstances is for any reason held invalid or unenforceable, the remainder of this Comprehensive Permit (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY MA 02481
1209 JUL 17 2007

ZBA 2018-64
Petition of 680 Worcester Road, LLC
680 Worcester Road

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE
PURSUANT
TO GENERAL LAWS, CHAPTER
40A,
SECTION 17, AND SHALL BE
FILED
WITHIN 20 DAYS AFTER THE
DATE
OF FILING OF THIS DECISION IN
THE
OFFICE OF THE TOWN CLERK.

Robert W. Levy
Robert W. Levy, Acting Chairman

J. Randolph Becker
J. Randolph Becker

Derek B. Redgate
Derek B. Redgate

RECEIVED
TOWN CLERK'S OFFICE
WELLESLEY, MA 02481
1209 JUL 10 2018
P 12:07

ZBA 2018-64
Applicant 680 Worcester Road, LLC
Address 680 Worcester Road

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings

DECISION
680 Worcester Road, Wellesley, Massachusetts
Comprehensive Permit

Decision Number:	2018-64
Date Application Filed:	August 7, 2018
Applicant:	680 Worcester Road, LLC
Premises Affected:	680 Worcester Road, Assessor's Map 121, Lot 18 (the "Site")
Relief Requested:	Comprehensive Permit, G.L. c. 40B, §§ 20-23
Public Notice:	August 23 and 30, 2018
Public Hearing(s) held:	September 6, 2018, September 25, 2018, November 1, 2018, November 20, 2018, December 4, 2018, January 15, 2019, February 13, 2019, March 12, 2019, March 26, 2019, April 30, 2019 and May 28, 2019.
Decision of the Board:	Approved with Conditions
Members participating:	Robert W. Levy, J. Randolph Becker, Derek B. Redgate
Date of Decision:	July 11, 2019; and
	April 14, 2021—amended in accordance with Decision of the Housing Appeals Committee

2021 APR 14 A 10:44

The Project

680 Worcester Road, LLC (the “Applicant”) has applied to the Zoning Board of Appeals (the “ZBA” or the “Board”) of the Town of Wellesley (the “Town”) for the issuance of a comprehensive permit subject to General Laws Chapter 40B, §§20-23 for property located at 680 Worcester Road. The property is a single lot containing 20,029 sf (0.46 acres) of land (the “Site”) lying in a Single Residence 10 (SR-10) zoning district. The Applicant presented several iterations of its project as the public hearing on this application progressed. As initially submitted by the Applicant, the application sought to construct twenty (20) rental units on the Site.

The building as originally proposed was four stories, with each of the four stories occupying the full footprint of the building. The Applicant revised this proposal to a five-story building, still containing twenty (20) rental units, with step backs of the third, fourth and (newly added) fifth floor from the easterly property line. At the May 28, 2019 session of the public hearing (with the time for the ZBA to conduct the public hearing set to expire that evening), the Applicant presented its final revisions to the proposed building, which eliminated the fifth floor and moved the fourth floor back closer to the easterly property line (as compared to the prior iteration). The Applicant did not inform the ZBA with certainty how many dwelling units would be contained in this last revised building configuration, but the number of units was understood to be several fewer than twenty (20) based on the removal of the fifth floor. At this May 28 session of the public hearing, the Board gave the Applicant the option of continuing the public hearing to allow for further discussion of this latest revision, and for the Applicant to provide more information regarding the number and configuration of dwelling units that it would contain. The Applicant declined to provide an extension of the time to conduct the public hearing, and instead asked the ZBA to approve the revised building form with the final number of units to be left as an open question. Unlike the height of the building and the step-backs of the upper floors, the footprint of the building did not change during the course of the public hearing.

Each floor of the Project has a central corridor that provides accessible access to each unit. Vertical access throughout the building is provided via an elevator that extends from the garage to the third residential floor, and through two stair cases, also extending from the garage level to the third residential level. A covered main entrance leads to the main lobby. Mechanical and electrical rooms are housed in the garage area, and the roof contains the air conditioning condenser units and the elevator machine room.

The building’s generally rectangular form is faceted and, as revised during the hearing, the third and fourth floors step back from the east façade. On the west façade the grade difference between the building and the adjacent Newton-Wellesley Center for Alzheimer’s Care (“NWCAC”) is accommodated with a segmental retaining wall from the adjacent grade to the grade of the garage level. On the south, a segmental retaining wall accommodates the grade at the western end, and a grassed slope (2H:1V) makes the grade transition from the garage level down to the adjacent residential lot.

The area along the west façade of the building is principally paved area to allow for vehicular traffic access and egress to this area and is basically without landscaping or amenities. To the north, there is a raised planting area about four feet high that meets natural grade at the easterly boundary. This raised area features a brick wall and works

with the brick façade of the garage level to create a masonry base for the residential floors above. The east façade is landscaped, both along the building and along the lot line, but without access from the sidewalk along the north, there are no amenities. At the south façade, landscaping is provided at the toe of the slope below the open air parking, but there are no accessible spaces or amenities.

The Site is a currently vacant lot found at the southern-most side of the east-bound lanes of Worcester Street (Route 9) a major traffic thoroughfare carrying approximately 44,000 cars per day (two-way, 24-hour volume) to and from Boston. Prior to the application for a comprehensive permit, the Site held a single family one and a half story home on a lot encompassing 20,029 square foot lot.

The Site is bounded on north by Route 9, and across Route 9 by a single-family residential 20,000 sf district. To the east lies a single-family residential 10,000 sf district in the Francis/Stearns Road neighborhood. To the south lies a single-family residence, and a vacant lot that is adjacent to the parking area of the NWCAC, a medical facility operated by National Health Care Associates. Further to the south lies Stearns Road and a vacant lot that is currently proposed for a second, separate multi-family 24-unit condominium project previously approved with conditions under a comprehensive permit. To the west of the Site lies the NWCAC and its parking area.

Land use to the east and south is principally single-family residences that were built between 1912 and 1941, and that are sited on lots that average approximately 15,000 sf in area, comfortably meeting the SR-10 lot size requirements. The Site, at 20,029 sf, is slightly larger than the average lot size in the neighborhood.

Topographically, the Site exhibits considerable relief. Along the Route 9 boundary, the topography of the Site ranges from elevation 154 feet at eastern end to elevation 148 feet along the western end, a six foot drop. The site generally slopes in a southwesterly direction to a low point of elevation 139 feet at the southwest section of the Site, giving an overall relief of 15 feet.

The geology on the Site includes moderate to steep grades. Three deep observation holes were performed on the Site to determine the characteristics of the soil, depth to groundwater and suitability of infiltrating stormwater runoff from impervious areas. The results indicate gravel, to coarse sand to loamy sandy soils, with depths ranging from 96 inches to 125 inches below ground surface. The results also indicate that the annual high groundwater table is approximately five feet below grade.

Governing Law

1. The law governing this application is the Comprehensive Permit Law, Massachusetts General Laws, Chapter 40B, §§ 20-23 (the “Act”), and the regulations promulgated by the Department of Housing and Community Development (“DHCD”), 760 CMR 56.00 et seq. (the “Regulations”).
2. The Act promotes regional distribution of low- or moderate-income housing by preventing individual cities and towns from using exclusionary zoning to block construction of such housing. Toward these ends, the purposes of the Act are satisfied if: (a) a town has

low or moderate income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census or (b) on sites comprising 1 ½ percent or more of the town’s total land area zoned for residential, commercial, or industrial use, or (c) the application results in the commencement of low and moderate income housing construction on sites comprising more than 0.3 percent of such total area or 10 acres, whichever is larger, in one year.

3. DHCD’s Regulations expand the definition of what constitutes satisfaction of the statute to include such methods as “recent progress” toward the statutory minima or compliance with a DHCD-approved housing production plan, all as described in 760 CMR 56.03(1).

4. At the time of the filing of this comprehensive permit application, the Town did not meet the statutory minima set forth in G.L. c. 40B § 20 or the “safe harbor” provisions of 760 CMR 56.03(3). Specifically:

- a. At the time of the filing of the application, the number of low- or moderate-income housing units in Wellesley constituted 6.3 percent of the total year-round units in the Town, based on the most recent decennial census. Thus, the Town does not meet the 10 percent statutory minimum.
- b. Existing affordable housing units are on sites which comprise less than one and one half percent of the total land area of the Town which is zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).
- c. Granting the Applicant’s request for a comprehensive permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
- d. At the time of the filing of the application, the Town did not have a Chapter 40B Housing Production Plan approved by DHCD under 760 CMR 56.03(4).
- e. The Town has not made “recent progress” as that term is defined in 760 CMR 56.03(5).
- f. The proposed development does not constitute a “large project” as defined in 760 CMR 56.03(6).
- g. The Site is not subject to any “related applications” as that term is defined in 760 CMR 56.03(7).

5. Given the foregoing, the ZBA’s decision on this comprehensive permit application must balance the regional need for low- or moderate-income housing against the Town’s long-range planning goals, local requirements and regulations to the extent that they are applied equally to subsidized and unsubsidized housing, and valid concerns about the health and safety of residents of the proposed housing, the surrounding neighborhood, or the Town as a whole.

6. The Applicant submitted to the ZBA a Project Eligibility Letter from Mass Housing dated May 23, 2018. Pursuant to 760 CMR 56.04, the issuance of this letter establishes as a matter of law that the Applicant is a limited dividend organization, that the Project is fundable by a Subsidizing Agency under a low or moderate income housing program, and that the Applicant has control of the Site. The issuance of this letter by Mass Housing allows the Applicant to file its comprehensive permit application with the ZBA

Procedural History

The Applicant submitted its application to the ZBA on August 7, 2018. The ZBA published notice on August 23 and 30, 2018, and sent notice to all parties in interest. The ZBA opened the public hearing on this application on September 6, 2018 and held continued sessions of the hearing on September 25, 2018, November 1, 2018, November 20, 2018, December 4, 2018, January 15, 2019, February 13, 2019, March 12, 2019, March 26, 2019, April 30, 2019, and May 28, 2019. The Applicant agreed in writing to extend the time for the ZBA to conduct the public hearing on this application through May 28, 2019, and declined to grant any additional extensions beyond that date. The ZBA voted to close the public hearing on May 28, 2019, which was the final day for the hearing to remain open absent agreement from the Applicant.

Over the course of the public hearing, the ZBA heard and considered extensive testimony from the Applicant and its consultants. The ZBA also received guidance from its M.G.L. c.40B consultant Judi Barrett of Barrett Planning Group LLC, and retained expert peer review of the Applicant's submittals from the following:

Civil Engineering: David J. Hickey, Town Engineer for the Town of Wellesley
Architecture and Design: Clifford J. Boehmer of Davis Square Architects
Traffic and Transportation: Robert L. Nagi of VHB

The ZBA also heard a considerable amount of testimony from abutters and residents from the surrounding neighborhood. During each session of the public hearing, these neighbors presented a compelling case in opposition to the Project. They raised numerous objections including, without limitation, the height and bulk of the proposed building relative to the surrounding single-family dwellings. The ZBA acknowledges the concerns expressed with respect to the Project, and notes that the impacts the neighbors cited may well have supported a denial of the Project in some other permitting context. After applying the standard of review under M.G.L. c.40B, §§20-23 and 760 CMR 56.00, however, the ZBA determined that the Project could be conditioned in such a way so as to minimize its impacts and therefore that the evidence in the record did not support a full denial of the application. With the understanding that this decision does not represent the desired result of the neighbors, the ZBA acknowledges their participation, concerns and input in the public hearing.

At a meeting held on July 3, 2019, the ZBA voted 3-0 to approve the Project subject to the findings, the action on the requested waivers, and the conditions set forth herein.

Findings of Fact

1. Zoning

a. Use Requirements

The Project is located in an SR-10 zoning district. Among the uses allowed in the SR-10 district are: (1) one-family dwellings; (2) educational uses; (3) child care facility; (4) clubs; (5) agriculture; (6) certain home occupations; (7) accessory uses customary to the allowed uses; and (8) certain other specialized uses upon the granting of a special permit. As a multi-unit, multi-family residential building, the use of the Project is not allowed in an SR-10 district, and this gives rise to the first principal waiver request under the comprehensive permit requested under G.L. c.40B §§ 20-23.

b. Dimensional Requirements

The Zoning Bylaw provides for each zoning district dimensional requirements for the lot, for the placement of buildings and structures on the land, and for the structures themselves. The dimensional requirements for the SR-10 district, and the corresponding dimensional information from the Project are summarized in Table 1.

Table 1 – SR-10 Dimensional Comparison

Category	Required	Project
Lot Area	10,000 sf	20,029 sf
Frontage	60 ft	200 ft
Minimum Front Yard Width	60 ft	200 ft
Minimum Front Yard Depth	30 ft	12.2 ft
Minimum Side Yard Width	20 ft	20.5 ft
Minimum Rear Yard Depth	10 ft	10.2 ft
Maximum Building Coverage	0.25	0.38
Maximum Building Height	45 ft	50.5 ft

2021 APR 14 A 10:45

With respect to the dimensional requirements for the lot, the Project meets the SR-10 requirements for both lot area and lot frontage. With respect to those requirements for the placement of the structure on the lot, the Project meets all yard width and depth requirements for the SR-10 district, except for front yard depth, which is constrained by the slope easement described below. For the dimensional requirements for the structures themselves, the Project exceeds the maximum building coverage and maximum building height for the SR-10 zoning district.

2. Land Use and Planning

As noted above, under the Zoning Bylaw, multi-family residential use is not allowed in the single residential districts that comprise the bulk of the residential land in Town. All the commercial zoning districts allow multi-family residential uses and there are four residential zones that allow more than single-family houses. Three of those zones cover relatively small areas and were tailored for specific projects that are not expected to change. The General Residence zone, however, covers 73 acres but allows only two-family buildings and town houses in addition to single-family houses.

Participants in the Unified Plan (the Town's Master Plan) public meetings saw the commercial, office and industrial districts as the most acceptable locations to construct new housing that is not single-family housing. A mixed-use approach, combining housing with retail stores, was often mentioned. The Zoning Bylaw requirements for the administrative and professional districts that the Unified Plan envisions would be the location of the multi-family housing, currently do not allow such uses. The Unified Plan does not anticipate developments like the Project in SR-10 districts.

3. Site

In order to accommodate the Project, the Site is to be re-graded, and earth material will be excavated and removed from the Site to make way for the foundations and underground Site features. These operations give rise to two issues that may impact the analysis: (1) retaining walls; and (2) easements.

a. Retaining Walls

To accomplish the grading of the Site, retaining walls are proposed along portions of the western and southern property lines. The retaining wall along the western lot line varies in height along its length to 9.3 feet. The face of the western wall is visible to the commuters on Route 9, and to the abutters at the NWCAC, but not to residents of the Project. At its southern end the western retaining wall turns and continues as the southern retaining wall to the east along the southern lot line with the height varying from 9.3 feet to three feet. The face of the southern wall is not visible to the residents of the Project, but will be visible from the abutters' property at 11 Stearns Road.

The retaining walls are proposed to be Stone Strong Walls® a precast concrete system manufactured to imitate natural stone. Due to the height and location of the wall along the property lines, the retaining walls will require waivers from the applicable section of the Zoning Bylaws. The Applicant has agreed to add plantings along the retaining wall to soften the visual impact of the wall when viewed from the NWCAC and Route 9.

b. Easements

The Site is subject to two easements, referred to as the slope easement (which runs to the benefit of MassDOT) and the sewer easement (which runs to the benefit of the DPW).

i. Slope Easement

The slope easement lies adjacent to the north lot line (the Route 9 frontage), is trapezoidal in shape (i.e. the easement varies in depth across the width of the Site), and extends across the entire frontage from beyond the east lot line to beyond the west lot line. The slope easement was reportedly used by MassDOT during a construction project for Route 9 in the mid-1970s, and has apparently not been modified or released.

The slope easement impacts the siting of the building, and the provision of public amenities in the easement space. The building is sited as close to the north lot line without either the building or the foundations encroaching on the slope easement. The electrical transformer at the northeast corner of the Site has been located to avoid the slope easement. Except for landscaping, no amenities are located in the slope easement.

ii. Sewer Easement

The 15-foot wide sewer easement lies perpendicular to the eastern lot line, and extends 81 feet into the Site. A six-inch clay sewer line is located within the easement, and extends from the connection at the now demolished single-family house across the eastern lot line, through the back yards of adjacent residences to Francis Road.

The sewer easement impacts the siting of the building, and the use of the land on the southern side of the building. The building has been sited such that the southern façade and its foundations are outside of the northern boundary of the sewer easement. The land within the sewer easement is used by the Project for surface parking that is accessed through the garage. The opening in the south façade that facilitates the parking also provides access to the sewer easement in the event that the sewer pipe requires maintenance or replacement. Except for landscaping and paved parking spaces, no amenities are located in the sewer easement.

iii. Impacts of Easements

These two easements limit the location of the building on the Site, insofar as the building cannot be moved further away from Route 9 to accommodate the front yard setback without encroaching into the sewer easement at the back (south) side of the Site. Similarly, the building cannot be moved closer to the eastern boundary without encroaching on the minimum side yard setback, or moved closer to the western boundary without encroaching on the setback and interfering with the access and traffic circulation from Route 9 entering the site and the garage.

4. Architecture

To assess the architecture and design, during the public hearing the Project density, height and bulk, and architectural details were reviewed.

a. Density

Based on the Assessor's "FY18 Residential" list, the median lot size in the single residence districts of the Town is 19,439 sf. Since the Zoning Bylaw allows only a single dwelling on a

lot, this implies that the median residential density in the residential districts is only 2.2 units/acre.

Based on information from the Planning Board staff, Wellesley has listed in its SHI 14 completed rental developments and eight completed ownership developments, for an overall total of 22 developments. The density of these developments ranges from a low of 0.4 units/acre at Wellesley Place (978 Worcester Rd) to a high of 39.9 units/acre at List House (315 Weston Rd). The median affordable housing development in Wellesley has a density of 23.8 units/acre.

Since the Project proposes 20 units on 0.46 acres, the density of the Project is 43.5 units/acre. Hence, in comparison to other Wellesley affordable housing projects, the Project density is not only significantly higher than the median project, its density is higher than any other affordable housing project that exists in Wellesley. When compared to the density of the median residential neighborhood, the Project represents a significant increase in density, from 2.2 to 43.5.

b. Height and Bulk

Under the terms of the Zoning Bylaw, the height of a building is measured from the average grade to the peak of the roof. For the Project, as revised at the conclusion of the public hearing, that height is 50 feet, 6.5 inches, approximately 112 percent higher than the height allowed in the SR-10 district. As noted above, the building is sited such that the western paved area is founded on a retaining wall that varies in height from 9.8 feet at the southwestern corner of the Site to near grade at the northwestern corner. Hence, when viewed from the west (starting at about the Oak Street intersection with Route 9) the apparent height of the Project will be nearly 60 feet. This western view is the one seen by approximately 23,000 eastbound cars on Route 9 each weekday, as well as the public that uses the adjacent NWCAC. At the 50 feet, 6.5 inch height, the building would be among the tallest in Wellesley, along with 50 Grove Street and the new Science Center at Wellesley College, each of which is sited on substantially more land than the Project.

The apparent height above actual grade when viewed from Stearns Road is also about 60 feet, although the Project will be seen from the south through trees that are growing on the vacant lot at 694 Worcester Road. When viewed from the north side of Route 9, the building's apparent height is 50 feet, though the residences there are screened by mature trees and, in some cases, fences.

The Applicant's original proposal was to construct four stories (three residential) that all occupied the entire building footprint, which was set 20' back from the easterly property line. There is an existing single-family dwelling that directly abuts that property line. The ZBA's architectural peer reviewer Clifford J. Boehmer testified that the monolithic four-story building, on that side, imposed too severe an impact on that neighboring single-family house. In response, the Applicant offered to step the third and fourth floor back from the easterly property line (the third floor approximately 15 feet from the second, and the fourth floor approximately an additional 30 feet), but further proposed to add a fifth floor over the newly stepped back fourth floor based on its perceived need to make up for lost floor area on the floors below. See Elevations Residential Level prepared by Grazado Velleco Architects, dated 11.14.17 and revised 1.28.19. The ZBA and its architect found that the need to step

back the third and fourth floors from the easterly property line (and the neighboring single-family house) to be a significant interest. Mr. Boehmer did not object to the inclusion of the proposed fifth floor. The proposed fifth floor brought the height of the building up to 60 feet, 4 inches, and would have made the Project the tallest building on Route 9 in Town, and the ZBA specifically found that this additional floor represented too significant a height increase for the Site relative to the surrounding buildings and uses.

When viewed from Route 9 or Stearns Road the apparent width of the building is approximately 160 feet. While this dimension is proportional to the frontage of the Site, this distance is perhaps five times wider than the neighboring homes. Overall the height and bulk of the building is significant when compared to the other single-family residential structures in the neighborhood or to the adjacent NWCAC.

c. Architectural Details

The front façade of the proposed building has an overall horizontal massing combined with a series of vertical elements. The first vertical feature is the entry, main lobby and individual residential level lobbies with generous glass openings in a brick form. The second vertical element is four window bay features at the front elevation. In order to emphasize the horizontal aspect of the building three layers of materials have been employed. As the building meets the ground, the base is brick veneer siding, followed by two levels of clapboard siding in two different colors capped by a belt course separating the second residential floor from the third residential floor with its flush vertical batten ~~boards~~ and parapet. The east façade continues the same pattern as the front façade, except that at the lowest level the brick veneer siding is replaced by the same clapboard as is used on the upper floors.

The west façade uses the same materials for the brick veneer vertical element, and continues the clapboard siding across the first and second residential floors, with the batten applied at the third residential floor.

The south façade employs the clapboard siding at the garage level, and at the lower two residential levels. There are no window bay features on the south façade. During the public hearing there was testimony from the ZBA's architectural peer reviewer and from abutters that while the Applicant had devoted significant attention to the architectural detail of the front façade facing Route 9, it had not provided the same attention detail or visual interest for this south façade. This façade faces the residential neighborhood along Stearns Road, and it was agreed that architectural revisions to provide a comparable level of detail as the north façade were warranted prior to issuance of any building permit.

The ZBA, and its architectural peer reviewer recognize that the Applicant has taken positive steps to mask and mitigate the bulk of the building through the use of articulation, and through architectural materials, colors and textures. Overall the ZBA found the height and bulk of the five-story iteration of the Project to be outrageous when compared to the other single-family residential structures in the neighborhood, to the adjacent 2.5 story NWCAC, and to other buildings on Route 9.

5. Transportation and Access

a. Site Access

Access to the Project will be provided by way of a single new curb cut and driveway at Route 9 at the western end of the Site. The drive is a full access driveway that will intersect the south side of Worcester Street approximately 465 feet east of School Street and 615 feet west of Francis Road. The drive will provide access to the front (west) entrance of the proposed residential building and will provide access to the at-grade parking garage beneath the proposed residential floors.

The ZBA's traffic peer reviewer testified that because the Project abuts state highway layout and since it proposes a new curb cut, a state highway access permit is required from MassDOT outside of the comprehensive permit process.

Vehicular traffic will turn right from Route 9, drive under the west wing of the proposed building, and then turn left into the garage. At its narrowest point, the drive is 19.5 feet wide from the building column to the concrete pedestrian walk at the front door, though the walk is flush with the driveway pavement. The drive provides access to: (i) two open air parking spaces at the west edge of the Site; (ii) two open air parking spaces beneath the west wing of the proposed building; (iii) the garage; and (iv) six open air parking spaces to the south of the building that are accessed through the garage.

Egress from the Site is via the same drive to Route 9.

The Applicant submitted turning radius diagrams for (1) AASHTO standard passenger car; (2) SU-30 (delivery vehicle); and (3) large ambulance to simulate traffic entering, exiting, and maneuvering on-site. The Applicant asserts that the turning diagrams demonstrate that traffic flow on the Site is safe. The ZBA's traffic peer reviewer requested turning diagrams for a WB-40 delivery truck (a common sized delivery truck larger than the SU-30), and the Applicant responded with a move-in management plan for the residents that limits move-in vehicles to the SU-30. When pressed for more information, the Applicant responded with a revision to the arrangement of the solid waste disposal area and the adjacent handicap parking, and the submittal of a turning radius diagram for a solid waste disposal truck that approximates a WB-40 vehicle. The Board's traffic peer reviewer reluctantly concluded that, while not an optimal design, the turning radius diagram demonstrated that the movement was technically feasible.

A representative of the Police Department testified at the hearing that the standard response to 911 emergencies is the dispatch of three vehicles, one ambulance, one fire truck and one police cruiser, and stated that in the event of emergency one or two of those vehicles would need to park on Route 9 because not all three could maneuver and park on the Site at the same time.

b. Public Transportation

Public transportation services are not provided within the immediate vicinity of the Site. However, public transportation services are provided to the Town by the Massachusetts Bay Transportation Authority via the Wellesley Square Station on the Framingham/Worcester Line of the commuter rail system (5-minute drive) and the Metro-

West Regional Transit Authority (MWRTA) bus Route 8 which provides three service stops through downtown Wellesley along Washington Street (approximately one mile). In addition, the MWRTA also operates Paratransit Services for passengers who meet ADA requirements and provides transportation services for seniors and the disabled through the Wellesley Council on Aging. In an effort to encourage the use of alternative modes of transportation to single-occupant vehicles, the Project includes the collection and distribution of educational materials to make new residents aware of the public transportation opportunities available to them as new residents.

6. Traffic and Parking

To assess the traffic impacts of the Project, the Applicant commissioned the "Transportation Impact Assessment" prepared by Vanasse & Associates, Inc. dated July 2018 (the "TIA"). The TIA was prepared in consultation with the Massachusetts Department of Transportation (MassDOT) and the Town; was performed in accordance with MassDOT's Transportation Impact Assessment Guidelines and the traffic review standards for a Project of Significant Impact as defined in the Zoning Bylaw; and was conducted pursuant to the standards of the traffic engineering and transportation planning professions for the preparation of such reports.

The TIA evaluated i) access requirements; ii) potential off-site improvements; and iii) safety considerations; under existing and future conditions, both with and without the Project. The ZBA engaged VHB/Vanasse Hangen Bruslin, Inc. to perform a peer review of the TIA, and VHB concluded that the information contained in the TIA is both technically accurate and portrays the likely impacts of the Project on the surrounding roadway system.

The findings of the TIA for vehicular traffic, including both roadways and intersections, and pedestrian traffic, are as follows:

a. Vehicular Traffic

Since all of the traffic ingress and egress to and from the site is from Route 9, without access to roadways of the Town, the only roadway assessed in the TIA is Route 9, and the intersections assessed include (1) Francis Road/Worcester Street; (2) Worcester Street Westbound U-turns; (3) Worcester Street Eastbound U-turns; and (4) Worcester Street/Oak Street/Westgate Road.

Using trip-generation statistics published by the ITE, the Project is forecast to generate approximately 108 vehicle trips on an average weekday (two-way, 24-hour volumes), with seven vehicle trips expected during the weekday morning peak-hour and nine vehicle trips expected during the weekday evening peak-hour.

The Project will not have a significant impact (increase) on motorist delays or vehicle queuing over existing or anticipated future conditions without the Project (no-build conditions), with the majority of the movements at the study intersections shown to operate at LOS D or better under all analysis conditions where an LOS of "D" or better is defined as "acceptable" operating conditions.

Independent of the Project, left-turn movements from the Worcester Street westbound

approach to the Worcester Street/Oak Street/Westgate Road intersection were identified as operating over capacity (defined as LOS "F") during both the weekday morning and evening peak hours, with Project-related impacts at the intersection defined as an increase in vehicle queuing of up to one (1) vehicle.

All movements exiting the Project driveway intersection with Route 9, the only access for the Project, are expected to operate at LOS D during the peak hours with negligible vehicle queuing predicted.

No apparent safety deficiencies were noted with respect to the motor vehicle crash history at the study intersections, with all of the study intersections found to have a motor vehicle crash rate that was below the MassDOT average crash rate.

Finally, lines of sight to and from the Site driveway were found to exceed the required minimum distance for the intersection to function in a safe manner.

In consideration of the above, the TIA concluded that the Project can be accommodated within the confines of the existing transportation infrastructure in a safe manner with implementation of the recommendations provided in the TIA.

b. Pedestrian Traffic

A comprehensive field inventory of pedestrian and bicycle facilities within the study area was undertaken in September 2017, consisting of a review of the location of sidewalks and pedestrian crossing locations along the study roadways and at the study intersections, as well as the location of existing and planned future bicycle facilities.

The TIA reports that a sidewalk is provided along the north side of Worcester Street and along the south side starting at 680 Worcester Street and continuing to the east, and along both sides of Westgate Road. Sidewalks are not provided along Oak Street, Francis Road, and marked crosswalks are not provided for crossing for study area intersections. An inventory of sidewalk conditions along the Project site frontage and within 600 feet of the Project site indicates that the sidewalks along Worcester Street are in fair to poor condition, with noncompliant Americans with Disabilities Act (ADA) wheelchair ramps provided at pedestrian crossings. MassDOT has indicated that there are plans to install sidewalks and granite curb along both sides of Worcester Street within the study area as a part of a future roadway improvement projects.

c. On-site Parking

On-site parking will be provided for 32 vehicles consisting of 23 parking spaces in a garage to be located beneath the proposed residential building, two open-air parking spaces located at the western edge of the access drive, two open-air parking spaces located beneath the western wing of the building, and five open-air parking spaces that are accessed through the garage, but located along the southern façade of the building.

Of the 23 parking spaces in the garage, 18 are located in three units of mechanical stackers, each planned to accommodate six passenger cars. Since the retrieval of a car from the second level requires moving the car beneath it, the Applicant reported that the over/under

stacker spaces would be assigned to units with two vehicles so that residents of a single unit would be in control of any vehicle movements, and no valet would be required.

For a twenty unit development, the proposed parking results in a parking ratio of 1.65 spaces per dwelling unit. This parking ratio is within the range of values documented by the Institute of Transportation Engineers (ITE) for an apartment community in a suburban setting.

7. Stormwater Management

The proposed drainage system consists of three parts. Runoff in the garage is collected in floor drains and directed to the sanitary sewer system. Runoff from the building roofs is collected and directed to an underground chamber for reinjection to groundwater. Finally, runoff from the drive area is directed to a catch basin near the entrance driveway, and flows to a second underground reinjection chamber.

Consistent with accepted engineering practice, the Applicant prepared and submitted the "Stormwater Management Report-680 Worcester Street" dated June 21, 2018 (the "Stormwater Report") that compared the runoff from the existing lot to the runoff from the Project. In addition, the Stormwater Report analyzed the stormwater management system to determine compliance with MassDEP Stormwater Management Policy.

The DPW, as the Board's stormwater peer reviewer, did not raise any major concerns in its memorandum regarding the Project. The Stormwater Report indicates that, in general, the Project will improve water quality and reduce peak runoff rates, and is in compliance with the Massachusetts DEP Stormwater Management Policy.

8. Utilities

The Site is serviced by municipal water and sewer. The electric, cable and telephone services are from an above ground pole located on the northeast frontage along Worcester Street. There is underground water and gas along the frontage as well. The sewer exits the Site in an existing easement from the easterly lot line. The sewer easement on the Site serves only the demolished existing house and does not provide service or potential for service to any other property. The sewer easement beyond the lot line contains a sewer main that runs through the rear yards of several adjacent homes and connects to the sewer main in Francis Road.

a. Water and Sewer

The Applicant has indicated that the Project will consume about 4,960 gallons of water and produce 4,510 gallons of sewerage per day. The initial assessment of the DPW is that the existing water infrastructure in Worcester Street Road is sufficient to meet the estimated need. The DPW recommended the sewer line be upgraded from the existing 6-inch clay line to a new 8-inch PVC line, noting that the 8-inch line is the municipal standard for commercial sewer mains. The Applicant's engineer has submitted a letter to the DPW stating that the capacity of the existing 6-inch sewer main is five to seven times the estimated need of the Project. The Board finds that the upgrade of the sewer line is not a capacity issue, but rather an operation and maintenance issue and accepts the DPW's

recommendation that the sewer line needs to be upgraded to an 8-inch PVC line to provide the same sewer service to the Project as is provided to other residents of Wellesley. .

b. Solid Waste

The Applicant shall ensure that all residents of the Project will collect their waste and dispose of it in the designated trash/recycling area located outside the garage level of the building in an enclosure for the waste containers. Waste will be collected from the exterior storage area by a private rubbish removal company engaged by the building management company. The collection will be scheduled at off peak hours so as not to impede any entering or exiting traffic from tenants/guests. Therefore, the Project will not adversely affect the Town's Recycling and Disposal Facility

c. Private Utilities

Natural gas, electric service, telephone service, and cable service can be provided on the same basis as to other residences in the Town.

9. Environmental Considerations

There are no identified wetlands located on the Site, and a Negative Determination of Applicability was issued by the Wellesley Wetlands Protection Committee for the Site on December 15, 2015, along with a determination that there were no jurisdictional resource areas or buffer zones on the Site. The Site is not known for flooding based on a review of DPW records.

Other than customary snow and ice control chemicals and fuel stored in the automobiles parked in the garage, storage of chemicals that would threaten groundwater or surface water is not part of the Project. The Site is not in a water supply protection district.

Exterior lighting is planned to be dark-sky compliant, and the submitted photometric plan demonstrates that light spill-over to adjacent properties is prevented.

10. Public Safety/Life Safety

During testimony at the public hearing, the Applicant stated that the building will be fully sprinklered.

The Applicant submitted vehicle access plans showing simulations of ambulance turning movements demonstrating that the ambulance could safely access and egress the Site. As noted above, the Chief of Police has notified that Board that the standard response to an emergency call is the dispatch of three vehicles, one ambulance, one fire truck and one police cruiser, and opined that in the event of emergency one or two of those vehicles would need to park on Route 9 because not all three could maneuver and park at the Site at the same time. It appears highly unlikely that residents of the Project will be able to enter or exit the parking area for the duration of any emergency response.

Fire vehicles and fire fighters will be able to access the building from Route 9. The Fire Department has not raised any concerns with the Project, but will review the final plans

prior to the issuance of any building permit for compliance with State Code.

11. Signage

The submitted drawings indicate two wall signs to identify the building. The first, showing the building address "680", is located on the Route 9 façade above the main entrance at the ground floor, and the second, showing "the Apartments at 680 Worcester Street", is located on the west façade just around the corner of the building from the first sign, and is also above the main entrance. No further details have been provided, so it is not yet known whether the sign complies with the other Zoning Bylaw requirements with respect to the area, height, illumination, and lettering of the sign.

The submitted drawings indicate that signage related to traffic and parking control on the Site will comply with the applicable standards of the Zoning Bylaw.

Disposition of Major Local Concerns

1. Health

The concerns expressed about health issues related principally to the DPW's recommendation that the existing 6-in. clay sewer pipe in the sewer easement be replaced with an 8-in. PVC pipe. The DPW estimates that the cut-and-cover replacement of the sewer pipe would cost \$71,000. While the Applicant's consultant based its argument on the capacity of the sewer pipe, showing through analysis that the sewer pipe had capacity in excess of that required for the proposed building, the DPW's expressed concerns relate to the operation and maintenance of the sewer pipe, for which the DPW is responsible. The DPW believes that the 6-in. clay pipe will require more operation and maintenance costs than the 8-in. PVC pipe. The Board is persuaded that depending on the existing 6-in. clay sewer pipe will mean that residents of the building will have a less reliable sewer service than the other residents in the Town, and that this lesser service is a health issue.

In considering this local concern, the ZBA finds that in order to have comparable sewer service as compared to the rest of the citizens of the Town, it is necessary to replace the 6-in. clay pipe with an 8-in. PVC pipe, and hence the local concern outweighs the regional need for low- and moderate-income housing.

2. Safety

The concern expressed for vehicular traffic has its roots in the small size of the lot relative to the building, the slope and sewer easements, and the concomitant inflexibility in the location of the building on the Site. While the assessments of the individual turning radius diagrams of the several vehicles studied show that the requisite turning movements are theoretically possible, no assessment was made of various scenarios that are both likely to occur and have safety impacts. Chief among these scenarios is the response to emergency calls, which the Town makes with three vehicles, one ambulance, one fire truck and one police cruiser. The Police Department testified that in such a scenario there is insufficient space on the Site for all three vehicles to park and maneuver, so that one or two of these vehicles would have to park on Route 9, a high speed, high volume state highway. No other property along the Route 9 corridor in the Town was found to have a similar parking

situation. Not only does this scenario place the Town's first responders in a hazardous position, it could be argued that the scenario also provides for the residents of the building a lower standard of care than that provided for other residents of the Town because the first responders cannot access those residents with the same speed as residents on other Route 9 properties in which on-site parking is available.

In considering this local concern, the ZBA searched for a condition or a set of conditions that would mitigate this concern. Because the slope and sewer easements constrain the footprint and location of the building (as described above), the only condition that the Board could find to mitigate the local concern was to free up space in the garage beneath the building or under the west wing of the building. The only way the Board could find to accomplish the creation of more space was to reduce the number of units, and thus to reduce the parking demand for the existing units, making it more likely that space would be available on the Site when an emergency occurred. Hence, the Board finds that the local concern outweighs the regional need for low- and moderate-income housing, and that a condition reducing the number of units to a number not to exceed eighteen (18) is appropriate.

3. Design

The concerns expressed about the design related to the bulk and mass of the building as described above. During the public hearing, the ZBA's architectural peer reviewer Clifford J. Boehmer testified that the monolithic four-story building, on the eastern side, imposed too severe an impact on that neighboring single-family house. In response, the Applicant offered to step the third and fourth floor back from the easterly property line (the third floor approximately 15 feet from the second, and the fourth approximately an additional 30 feet), but further proposed to add a fifth floor over the fourth based on its perceived need to keep the unit count at twenty. The ZBA and its architect found that the need to step back the third and fourth floors from the easterly property line (and the neighboring single-family house) to be a significant interest. The ZBA further found that the fifth floor, which brought the height of the building up to 60 feet, 4 inches, represented too significant a height increase for the Site relative to the surrounding uses. While the ZBA notes that the Applicant responded in accordance with the peer review comments, the western end of the building sits atop a 10 foot high retaining wall, making the apparent building height from that side approximately 70 feet overall.

Nonetheless, the ZBA finds that the height of the building at 50.5 feet is consistent with the discussions of building height and mass, as well as being consistent with other multi-family residential and college buildings in the Town. Further, the ZBA finds that the step backs described above are an appropriate response to the architectural comments and the height of the building at 50.5 feet is a balance between the local concerns and the regional need for low- and middle-income housing. While it is not clear to the ZBA what number of dwelling units, or what distribution of dwelling units (between one-, two- and three bedrooms) the current building will allow for, a reasonable estimate, assuming a mix of one-, two- and three-bedroom units, appears to be approximately eighteen (18), and the ZBA finds that such a unit count is consistent with both the safety analysis and the design analysis.

Waivers

The Applicant submitted a final list of requested waivers from the Town's bylaws, rules and regulations dated February 6, 2019. The ZBA acted on this specific list of requested waivers as follows:

A. Zoning Bylaws:

1. Section IIA. Single Residence Districts. The Applicant seeks a waiver of the use requirements of the Single Residence District to allow for the construction of a multi-family use, which is not allowed in the district. The ZBA balanced the regional need for low- or moderate-income housing against the local concern for single family residences, and finds that the regional need for low- or moderate income housing outweighs the local concern that this particular land be used for single family residences. However, the ZBA further finds that the Applicant's proposed building is too large for this 0.46 acre parcel. The ZBA therefore grants a waiver to allow for a multi-family rental development on this Site subject to all of the conditions set forth below, without specifically approving the number of dwelling units originally proposed by the Applicant.

2. Section XVI. Restrictions Affecting All Districts. The Applicant seeks a waiver of this section to allow for the construction of a multi-family use that is not allowed in the district. The ZBA grants the requested waiver to allow for a multi-family rental development with parking and appurtenances as shown on the Approved Plans, as modified by the conditions set forth below. With respect to the specific requirements of this section, the ZBA finds that the Project complies with Sections XVI §§(A) through (C), and §§(G) through (I); the ZBA grants the procedural request to waive §(D)(4) to allow for the parking of an office trailer and a storage trailer on the Site during the period of construction of the Project only; the ZBA grants the procedural request to waive §(E) to the extent that the Comprehensive Permit procedure replaces the project approval process specified in Section XVIA and the special permit process specified in Section XXV; and the ZBA denies the waiver request in part by finding that, consistent with §(F), construction shall not start unless and until the Comprehensive Permit has been perfected, the Subsidizing Agency has granted final approval, and the Regulatory Agreement has been recorded at the Registry of Deeds. The ZBA waives any bonding requirements of §(F).

3. Section XVIA. Project Approval. The ZBA grants a waiver of the requirement that the Project obtain design review, site plan review, and a Project of Significant Impact Special Permit. The ZBA notes that the subjects normally addressed in these reviews were reviewed as part of the ZBA's public hearing on the comprehensive permit application.

4. Section XVIC. Drainage Review. The ZBA grants a waiver of the requirement that the Project undergo separate drainage review pursuant to this section of the Zoning Bylaw. Notwithstanding the foregoing, the ZBA notes that the drainage was reviewed as part of the ZBA's public hearing on the comprehensive permit application.

5. Section XVIE. Tree Protection & Preservation. The ZBA waives the requirements of this section of the Zoning Bylaw; provided, however, that a waiver of the conditions

contained in this section requiring maintenance of replanted or new trees in §(F)(4) is denied.

6. Section XVIIIB. Ratio of Building to Lot Area. The ZBA reviewed the actual ratio of building to lot area and finds that the regional need for low- or moderate income housing outweighs the local concern for the ratio of building to lot area. Therefore, the ZBA grants a waiver of the required ratio of 0.25 to allow for an actual ratio of 0.38 as shown on the Approved Plans.

7. Section XX. Heights of Buildings or Structures. The ZBA reviewed the actual building height and compared it to the allowed height of 45 feet, and found that the local concern for building height would have compelled the denial of the Applicant's proposed 5-story building, which it voluntarily withdrew during the hearing. The local concern for building height allows for a 4-story proposal with a maximum building height (not including the small projection for the elevator mechanicals) of 50' 6.5", provided that adequate step-backs of the second and third residential floors are provided. Therefore, the ZBA grants a waiver of the maximum building height to allow for an actual building height of 50' 6.5" (based on the average finished grade of 148.2) and 4 stories as shown, subject to the conditions included herein.

8. Section XXI. Off Street Parking. The ZBA grants a waiver of the requirements of Section XXI so as to allow for the construction of resident parking spaces, guest parking spaces, and maneuvering aisles as shown on the Approved Plans. The ZBA finds that maneuverability and access are not ideal, but have been found by its traffic consultants to just satisfy accepted industry practice.

9. Section XXII. Design Review. The ZBA grants a waiver of the requirement for separate review by the Design Review Board for this Project. The ZBA notes that subjects normally addressed during Design Review were reviewed as part of the ZBA's public hearing on the comprehensive permit application.

10. Section XXIIA. Signs. The ZBA grants a waiver of Section XXIIA with respect to the location of the signs shown the Approved Plans (as defined below). The Applicant did not present any dimensions, depictions, or renderings of any signs associated with the Project as part of its application, therefore no further waiver is granted with respect to the Town's regulations regarding signs.

11. Section XXIID. Retaining Walls. The Applicant has requested a waiver to allow for a retaining wall with a 0' setback from the easterly property line and with a maximum height of up to 9' 6". The ZBA grants the waiver to the extent that its action on this Comprehensive Permit shall obviate the need to apply for any special permit under Section XXIID, and authorizes, as a matter of zoning, the retaining wall as shown on the Approved Plans. The ZBA notes that nothing contained in this decision affects any applicable requirement of the State Building Code.

B. Other Rules and Regulations.

12. Rules and Regulations for Tree Preservation and Protection. The ZBA grants a

procedural waiver of the need for separate review under these rules and regulations. Landscaping has been reviewed and approved by the ZBA through M.G.L. c.40B comprehensive permit process in accordance with State law and regulations.

13. DPW Municipal Stormwater Drainage System Rules and Regulations. The ZBA grants a waiver of the need for separate review by the DPW. Stormwater management has been reviewed by the ZBA during the M.G.L. c.40B Comprehensive Permit process and is approved as shown on the Approved Plans.

14. DPW Sewer Rules and Regulations. The Applicant has requested a waiver of the DPW's Sewer Rules and Regulations so as to allow the Project to be served by retaining the existing 6" clay sanitary sewer line that exists at the Site. The Wellesley Town Engineer testified that the standard sewer main for a new commercial project of this type is an 8" PVC main. Based in the evidence in the record, the ZBA determines that the local concern for having adequate sewer capacity and a properly constructed, new sewer main to serve this new multi-family rental project requires that waiver request be denied.

* * * * *

The ZBA grants only the specific waivers itemized above. If it appears after issuance of this Comprehensive Permit that any additional waiver is needed, the Applicant shall be required to seek the approval of the ZBA.

Conditions to the Comprehensive Permit

The ZBA's approval of the Comprehensive Permit for the Project is subject to the Applicant's and the Project's compliance with the following conditions. All requirements imposed by these conditions or this Comprehensive Permit shall be applicable to the Applicant, its successors and assigns, and all tenants and residents of the Project, regardless of whether the condition specifically identifies the Applicant or no entity as having responsibility for a particular condition.

General

1. This Permit authorizes the construction, use and occupancy of a building as shown on the Approved Plans (listed and defined in Condition 2) below, with the following required modifications:

- a. The Building shall have a maximum height of four stories and 50 feet, 6.5 inches from the average grade. This maximum height shall not apply to the projection above the roofline for elevator mechanicals as shown on the Approved Plans.
- b. The third floor (second residential floor) shall be set back 35' from the easterly property line of the Site and shall have the dimensions depicted on Sheet A3 of the architectural plans labeled "Elevations Residential Level" prepared by Grazado Valleco Architects dated 11.14.17 and revised 1.28.19.

- c. Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.
- d. There shall be no fifth (fourth residential) floor.

2. Except for revisions noted in Condition 1, or as may be further conditioned below, the Project shall be constructed in accordance with the following plans and written materials:

Plan Number	Drawing Title	Date of Issue	Prepared By	Date of Revision
C	Cover Sheet	6/29/18	James A. Velleco, R.A.	1/28/19
A1	Grade Garage Level	6/29/18	James A. Velleco, R.A.	1/28/19
A2	First Residential Level	6/29/18	James A. Velleco, R.A.	11/14/17, 1/28/19
A3	Second Residential Level	6/29/18	James A. Velleco, R.A.	11/14/17, 1/28/19
A4	Third Residential Level	6/29/18	James A. Velleco, R.A.	11/14/17, 1/28/19
A5	North and East Elevations	5/22/11	James A. Velleco, R.A.	2021 APR 14 ADO
A6	South and West Elevations	5/22/17	James A. Velleco, R.A.	2021 APR 14 ADO
A5	Fourth Residential Level	1/28/19	James A. Velleco, R.A.	2021 APR 14 ADO
A6	Roof Plan Residential Level	1/28/19	James A. Velleco, R.A.	2021 APR 14 ADO
A7	Elevations Residential Level	11/14/17	James A. Velleco, R.A.	1/28/19, 5/21/19
A8	Elevations Residential Level	11/14/17	James A. Velleco, R.A.	1/28/19
A9	Sketch A	1/28/19	James A. Velleco, R.A.	
	Photosimulation – Front Elevation			
C1	Survey Plan	5/9/16	Thomas F. Winslow, PLS	11/14/17, 4/5/18, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C2	Existing Conditions Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18,

				12/3/18, 12/21/18, 3/7/19
C3	Layout Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/11/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C4	Vehicle Access Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19
C4A	Vehicle Access Plan	5/9/16	Hayes Engineering	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C4B	Vehicle Access Plan	5/9/16	Hayes Engineering	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C4C	Vehicle Access Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/17/19, 2/20/19, 3/7/19
C5	Grading Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C6	Utility Plan	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18,

				12/21/18, 3/7/19
C7	Detail Sheet	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C8	Detail Sheet	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
C9	Detail Sheet	5/9/16	William R. Bergeron, P.E.	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 3/7/19
WSE	Existing Watershed Map	6/12/18	William R. Bergeron, P.E.	
WSP	Proposed Watershed Map	5/9/16	William R. Bergeron, P.E.	11/14/17
L1	Landscape Plan	5/9/16	James K. Emmanuel, RLA	11/14/17, 6/29/18, 10/19/18, 12/3/18, 12/21/18, 1/14/19, 3/5/19, 3/7/19
C1	Context Map Stearns Road and Worcester Road	10/10/18	Hayes Engineering	
C1	Context Map Stearns Road and Worcester Road	10/10/18	Hayes Engineering	
	16 Stearns Road and 680 Worcester Street Shadow Study Diagram – Summer Solstice – June 21 – 6:40 am, Noon, 5 pm			2021 APR 14 10:46
	16 Stearns Road and 680 Worcester Street Shadow Study Diagram – Autumnal Equinox (Spring			2021 APR 14 10:46

	Similar) – September 22 – 8 am, Noon, 3:30 pm			
	16 Stearns Road and 680 Worcester Street Shadow Study Diagram – Winter Solstice – December 22 – 9:10 am, Noon, 2:10 pm			
	680 Worcester Street Shadow Study Diagram – Summer Solstice – June 21 – 6:40 am, Noon, 5 pm			2021 APR 14 A 10:46
	Shadow Study Diagram – Autumnal Equinox (Spring Similar) – September 22 – 8 am, Noon, 3:30 pm			
	Shadow Study Diagram – Winter Solstice – December 22 – 9:10 am, Noon, 2:10 pm			
H1	Design Phase Height Comparison	11/12/18	Grazado Velleco Architects	
H2	Design Phase Height Comparison	11/12/18	Grazado Velleco Architects	
H1	Height Comparison Along Worcester Street	3/1/19	James A. Velleco, RA	
H2	Height Comparison 2 at Worcester St	3/3/19	James A. Velleco, RA	
	Photosimulation – Looking west on Route 9 – Proposed Structure			

Retaining Wall at West Elevation (undated/submitted April 24, 2019)

Retaining Wall at South Elevation (undated/submitted April 24, 2019)

Transportation Impact Assessment—Proposed Residential Development 680 Worcester Street (Route 9) Wellesley, Massachusetts prepared by Vanasse & Associates, Inc. June 2018 (Updated per letter of September 26, 2018).

Storm Water Management Report #680 Worcester Street Wellesley, Massachusetts dated June 21, 2018.

680 Worcester Street, Wellesley MA Proposed Trash/Recycling Narrative

(collectively, the “Approved Plans”).

3. Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.¹

4. All dwelling units approved under this Comprehensive Permit shall be rental units.

5. At least twenty-five percent (25%) of the dwelling units in the Project shall be reserved in perpetuity as Low or Moderate Incomer Housing restricted for lease and occupancy by Income Eligible Households as these terms are defined in 760 CMR 56.02. At least twenty-five percent of each apartment type (one-, two- and three bedrooms) shall be Low or Moderate Income Housing. The initial rents of the Affordable Units shall be established by the Subsidizing Agency.

6. The Project shall contain a maximum of 32 parking spaces as shown on the Approved Plans. Notwithstanding the foregoing, the 32 parking spaces shown on the Approved Plans were provided to serve the 20 dwelling units originally proposed by the Applicant. The ZBA encourages the Applicant to proportionately reduce the number of parking spaces provided on Site to correspond to the 18 (or other number) of units that are actually constructed, and to use the area previously devoted to any eliminated parking spaces to provide for improved vehicle maneuvering on Site.

7. There shall be no parking on the internal Site driveways, outside of designated parking areas shown on the Approved Plans, and no parking by residents or guests of the Project outside of the Site on Route 9 or any other street. All paved area under the building that is not devoted to parking spaces shall be painted or marked as “Fire Lane/No Parking.”

8. Locations of signs identifying the development shall be limited to those shown on the Approved Plans.

9. There shall be no pavement added to the Project beyond that which is depicted on the Approved Plans and there shall be no additional accessory structures added to the Project or to the Site other than what is shown on the Approved Plans.

10. All utilities shall be installed underground (with the exception of junction boxes, transformers and similar appurtenances) by the Applicant using methods standard to those installations. Utilities shall include electric service lines, gas service, telephone lines, water service lines, CATV lines, municipal conduit, stormwater management systems, and the like.

¹ Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.

11. The water, wastewater, drainage, and stormwater management systems servicing the buildings shall be installed and tested in accordance with applicable Town standard requirements and protocols.

12. The stormwater design shall function consistent with the Approved Plans, as revised, and with the Stormwater Report, prepared by Hayes Engineering dated June 21, 2018.

Submission Requirements—Prior to Commencement of Any Construction Activity

13. No construction activities for the Project shall commence on the Site until the Applicant has submitted evidence that it is in good standing with the Corporations Division of the Secretary of the Commonwealth's Office.

14. No construction activities for the Project shall commence on the Site until the Applicant has submitted to the ZBA a narrative description of the final unit count, unit distribution (of one-, two- and three bedroom units), and floor plans showing the layout and size of those units within the Building.

15. No construction activities for the Project shall commence on the Site until the Applicant has obtained Final Approval of its Subsidizing Agency and presented evidence of same to the Building Inspector.

16. No construction activities for the Project shall commence on the Site until the Applicant has recorded at the Norfolk Registry of Deeds copies of this Comprehensive Permit and the Regulatory Agreement for the Project and delivered certified recorded copies of the Regulatory Agreement and Monitoring Services Agreement to the Building Inspector.

17. No construction activities for the Project shall commence on the Site until the Applicant has properly marked the limits of disturbance around the Site. The Building Inspector shall inspect the Site after such marking prior to any disturbance.

18. No construction activity shall commence until the Applicant has obtained final approval for the curb cut as shown on the Approved Plans from the Massachusetts Department of Transportation. [Remainder of Condition 18 deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee].

19. No construction activities for the Project shall commence on the Site until the Applicant has submitted to the Building Inspector a revised Construction Management Plan and Construction Management Schedule (CMP) as necessary to conform to accepted industry practice and to address all construction-related conditions specifically set forth below in this Comprehensive Permit. Without limiting the foregoing, the CMP shall include:

- a. Construction schedule in order to provide guidance and facilitate inspections.
- b. Trucking plan, which shall specify planned truck routes, estimated

volumes of any imported and exported materials, estimated truck trips and construction period mitigations measures consistent with the conditions set forth herein, including without limitation details and locations of crushed stone entrance pads, street sweeping protocols and dust control measures.

- c. Construction administration (hours of construction, deliveries, trash and debris removal).
- d. Communication (designated contacts on site).
- e. Noise and dust control.
- f. Controlled blasting schedule (if any).²
- g. Erosion control.
- h. Groundwater management, surface water management, and dewatering.
- i. Dewatering.
- j. Identification of existing underground utilities.
- k. Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.
- l. Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.
- m. Location of trailers, dumpsters, and restrooms.

20. The CMP shall be included or incorporated by reference in the general construction contract and all sub-contracts, and compliance with its terms shall be a contract condition for all contractors working at the Site.

21. No construction activities shall commence for the Project until the Applicant has created a website or adapted an existing website, to provide Town officials and residents access to the most current scheduled activities and to provide notification of upcoming Project events that reasonably have the potential to impact the surrounding neighborhood. Such scheduled activities shall be shown in a two-week or three-week (whichever the Applicant normally uses in its project planning and construction management) look-ahead schedule that shall be updated not less than bi-weekly, and such notifications shall be posted not less than 14 calendar days prior to the referenced events. In addition to the website, the Applicant shall establish a telephone number for receiving and responding to questions or concerns expressed by residents of the Town concerning the

² The Applicant did not discuss controlled blasting for this Site in its application or during the public hearing, and the ZBA therefore does not anticipate that any will occur during construction.

project construction activities or compliance with the Comprehensive Permit. The number will be provided to Town officials, posted at the Site in a conspicuous location visible to the public, and published once in the Wellesley Townsman prior to or concurrent with the start of construction. The Applicant shall provide written notice to the Building Inspector that this website is up and running. The Applicant shall maintain this website throughout the term of construction for the Project, and update it regularly as schedules change.

Submission Requirements—Prior to Issuance of a Building Permit

22. Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.

23. During design development and the preparation of construction documents, the Applicant shall revise the south elevation of the building (facing Stearns Road) to provide for a level of detail and visual interest comparable to the north elevation of the building; these revisions may include, without limitation, the use of differing materials and color schemes for the different facets.

24. Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.

25. No building permit shall issue until the Applicant has prepared subsequent detailed design development and construction drawings (including without limitation civil, structural, mechanical, electrical, landscaping and architectural plans) that have been revised in accordance with the terms of the Conditions of Approval, and said construction drawings have been reviewed and approved by the Building Inspector and others as specifically provided for below, solely for consistency with this Comprehensive Permit:

- i. Revised stormwater plans shall be submitted to the Town Engineer for review to confirm consistency of such plans with the Approved Plans;
- ii. Detailed plans of the following utilities and services shall be prepared in accordance with all applicable regulations and requirements and shall be submitted for review and approval by the listed authorities prior to endorsement of the final plans:
 1. Water mains - Town of Wellesley DPW;
 2. Fire hydrant locations -Town of Wellesley Fire Chief;
 3. Primary and secondary electrical cables including distributions boxes and transformers – Wellesley Municipal Light Plant & Wiring Inspector;
 4. Telephone cables and street lighting - Wiring Inspector.

The Applicant shall submit with the subsequent detailed design development and construction drawings provided for herein an itemization of all revisions to the Approved Plans and a certification from the Engineers of Record that these plans fully incorporate all requirements of these conditions as set forth herein.

Conditions on Construction

26. Site work and construction shall be restricted to the hours between 7:00 am and 5:00 pm, Monday through Friday and between the hours of 8:00 am and 4:00 pm on Saturday. There shall be no construction on Sundays, or on state or federal holidays. Additionally, construction vehicles and/or equipment shall not be started or operated prior to, or after the times stated herein. For this condition, construction activities shall be defined as: start-up of equipment or machinery, delivery of building materials and supplies; 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 the erection of new structures.

27. Deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee.

28. Erosion control shall be employed on the Site to stop erosion during construction and prevent sedimentation from entering the abutting public ways and adjacent wetland areas.

29. During construction, the Site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner.

30. The Applicant shall regularly remove construction trash and debris from the Site in accordance with good construction practice.

31. All potential safety hazards that may exist on the Site from time to time during the period of construction shall be adequately secured prior to the end of each workday.

32. The Applicant shall implement measures to ensure that noise from Project construction activities does not exceed permissible regulatory levels, including without limitation, DEP's noise regulations at 310 CMR 7.10 and noise pollution policy interpretation.

33. During construction the Applicant shall ensure that dewatering activity does not create (a) offsite issues or (b) problems for the proposed stormwater recharge system.

34. The Applicant shall be permitted to remove and/or replace earth from the Site incidental to the construction of the residential building, the construction of the drainage and underground infiltration system and the construction of the roadway and utility infrastructure as shown on the Approved Plans. Hours of operation for earth removal shall be 7:00 am - 5:00 pm, Monday through Friday; there shall be no hauling on Saturday or Sunday.

35. The Applicant may locate trailers on the Site during construction activity only. During construction all trailers, dumpsters, and portable restrooms shall be placed within the Site so as to not impact the residential abutters.

36. The Applicant shall maintain all portions of any road used for construction access free of soil, mud or debris due to use by construction vehicles associated with the

Project. Any material tracked onto a public way shall be swept up and removed by the Applicant on a daily basis.

37. A temporary construction sign no greater than twenty (20) square feet in size may be erected on the Site at the time of issuance of a building permit. This sign shall list the website required above and include contact information.

38. No construction workers or contractors may park on Route 9, [or] on any other street [...] during construction. [Remainder of Condition 38 deleted pursuant to March 15, 2021 Decision of the Housing Appeals Committee].

39. Any idling of vehicles on the Site shall be limited to five minutes or less in accordance with M.G.L. c.90, §16A, and the Applicant shall post clearly visible signage on the Site, to be maintained for the duration of the construction period, noting this requirement. As stated in Condition 27, there shall be no idling whatsoever on Route 9 or any other street.

40. Construction shall conform to all applicable local, state and federal laws and regulations regarding noise, vibration, dust and sedimentation, use and interference with Town roads.

41. The Applicant shall implement dust control operations as necessary to comply at all times with applicable law, including without limitation DEP's dust regulations at 310 CMR 7.09, as amended, as directed by the Building Inspector. Methods of controlling dust shall meet all applicable air pollutant standards as set forth by Federal and State regulatory agencies.

42. The Applicant shall, upon advance notice, permit Town and Board members, agents, and representatives to observe and inspect the Site and construction progress until such time as the Project has been completed.

43. The Applicant shall notify the relevant Town departments of installation of utilities and infrastructure for inspections prior to backfilling.

44. Upon completion of the Project, soil material used as backfill for pipes, access drives, infiltration beds, and other underground drainage structures shall be certified by the Engineer of Record to the Building Inspector as meeting design specifications.

45. The Project shall conform to all pertinent requirements of the Americans with Disabilities Act and the Architectural Access Board Regulations (521 CMR 1.0 et. seq), except as may be waived, in accordance with applicable law and regulation.

46. The ZBA notes that Jay J. Derenzo, a principal in the Applicant 680 Worcester Road, LLC has, through another entity 16 Stearns Road LLC, proposed to construct a separate project pursuant to M.G.L. c.40B, §§22-24 at nearby property located at 16 Stearns Road. There shall be no use of the Site whatsoever to support any site work, construction activity or administration, parking, or vehicle, equipment or materials storage associated with property located at 16 Stearns Road, or vice versa.

Legal Requirements

47. The Applicant has proposed, and the ZBA hereby requires, that the following common facilities and services of the Project, to the extent located on the Site, shall be and shall remain forever private, and that the Town shall not have, now or ever, any legal responsibility for operation or maintenance of same:

- a. All internal site drives, walkways and parking areas;
- b. Stormwater management system, including the maintenance of catch basins, infiltrator units, bio-swales, underground infiltration structures and the like;
- c. Snow removal;
- d. Landscaping and landscape maintenance;
- e. Trash removal;
- f. Water system within the Site for both domestic use and fire protection, including hydrants; and
- h. Wastewater infrastructure within the Site with the exception of the Town sewer main located within the sewer easement.

The common facilities referred to above shall be maintained in perpetuity by the Applicant.

48. The Applicant shall either arrange itself, or contract with a qualified management company, for the maintenance and repair all common areas and facilities, including the stormwater management system, wastewater disposal systems, landscaping, and other improvements within the Site.

49. The Applicant shall assure that the proper conditions are included in the unit leases to address the following:

- a. To the extent permitted by law, there shall be no conversion of interior space into additional bedrooms.
- d. Trash and recycling receptacles shall be stored inside the designated area shown on the Approved Plans except during collection.
- e. All Town bylaws and regulations concerning home-based businesses shall be applicable to the units.
- h. Pet waste shall be picked up on the Site and disposed of in the toilet or trash receptacle.
- i. The storage, use and disposal of any household hazardous wastes shall be properly and safely conducted.
- j. There shall be no rentals of the market rate dwelling units for terms shorter than twelve (12) months; any rentals of affordable units shall comply with the terms of the Regulatory Agreement and Deed Rider.

50. All necessary easements shall be granted by the Applicant where required by public utility companies or the Town. The aforementioned easements shall be recorded in a timely manner and shall be submitted to the Building Inspector prior to occupancy.

51. All landscaping required by this Permit shall be guaranteed for a period of twelve (12) months by the Applicant. The Applicant shall be responsible for replacing dead, dying and/or diseased plantings within this time period. Verification of the dates of planting must be submitted to the Building Inspector.

52. This Comprehensive Permit and Regulatory Agreement shall be recorded at the Norfolk Registry of Deeds senior to all other liens or encumbrances other than pre-existing easements of record and existing mortgages.

53. If at any time during construction, the Building Inspector, Town Engineer or the ZBA determines that a violation of the Approved Plans or this Comprehensive Permit has occurred, the Town, through the Building Inspector or the ZBA, shall notify the Applicant and the Applicant shall be given thirty (30) days (or lesser time period if in the sole opinion of the Town that said violation creates an emergency condition) to rectify said violation or construction activities shall be ordered to cease until the violation is corrected.

Affordability Requirements

54. Twenty five percent (25%) of the total units in this development shall be available in perpetuity for rent and occupancy by low and moderate income households as defined in DHCD's regulations (the "Affordable Units").

55. A Massachusetts Housing Finance Agency Regulatory Agreement for either Comprehensive Permits Projects in Which Funding is Provided Through a Non-Governmental Entity, or for the Housing Starts Program or a regulatory agreement with another qualifying subsidizing agency, shall be executed prior to the issuance of the Building Permit for the Project. This Regulatory Agreement shall set forth the terms and agreements relative to the rental of the Affordable Units in the development. The Regulatory Agreement and Monitoring Services Agreement shall be submitted to the Building Inspector prior to its recording.

56. Given that 25% of the total units in the Project must be Affordable Units in perpetuity, it is further a requirement that the project shall always be subject to a suitable regulatory agreement. Therefore prior to the expiration of the initial Regulatory Agreement with the Subsidizing Agency, the Applicant shall execute and record a successor Regulatory Agreement and Monitoring Services Agreement, to be approved by Town Counsel, for the period after the expiration of the term of the affordability restrictions imposed by the Subsidizing Agency. The Applicant shall enter into this second Regulatory Agreement and Monitoring Services Agreement with the Town and the Monitoring Agent, which shall continue the affordability restrictions imposed by the Subsidizing Agency and this Comprehensive Permit. Such agreement shall be consistent with the terms of this Comprehensive Permit. The Applicant shall retain the Town or a consultant designated by the Town as the Monitoring Agent for this development for the period after the expiration of the term of the affordability restrictions imposed by the Subsidizing Agency. All costs associated with monitoring for consistency with the Regulatory Agreement shall be borne by the Applicant.

57. Upon the effectiveness of the successor regulatory agreement referred to above, rents for the Affordable Units shall continue to be restricted in accordance with the applicable rules, regulations, and guidelines of the Subsidizing Agency (or its successor agency) that existed prior to the expiration or termination of the previously effective regulatory agreement, as if it were still in force and effect. To the extent that the Subsidizing Agency (or its successor agency) has ceased to promulgate such applicable

rules, regulations, and policies, then the rent for the Affordable Units shall be determined based on substitute regulations of a federal or state governmental agency providing subsidies for low or moderate income housing as shall be reasonably determined by the Applicant and the Town, in order to ensure the continued availability of the Affordable Units for the purposes set forth herein and in the Comprehensive Permit for the entire term of the agreement. Further, if M.G.L. c.40B (or its successor statute) still provides a mandate for municipalities to provide low or moderate income housing, the Applicant shall continue to operate and manage the Project as would permit the Project to be credited toward the Town's Subsidized Housing Inventory for purpose of Chapter 40B.

58. To the maximum extent permitted by law, and applicable regulation local preference for the occupancy of seventy percent (70%) of the Affordable Units shall be given to residents of the Town satisfying all applicable eligibility requirements. For the purpose of this condition, and subject to any legal requirements, "residents of the Town" shall, to the extent not otherwise prohibited or limited by the provisions of relevant governing regulations or requirements, include, but not be limited to, the following: current Wellesley residents; employees of the Town, Wellesley Public Schools; and members of the household of children attending the Wellesley Public Schools. This Condition shall be enforceable only to the extent the local preference requirement set forth herein is approved by the Subsidizing Agency based on information that the Town shall be responsible to provide in accordance with the requirements of DHCD set forth in its Chapter 40B Guidelines.

59. The Affordable Units shall have similar amenities as the market-rate units and the Subsidizing Agency shall approve the distribution of the Affordable Units throughout the Project.

Miscellaneous

60. Enforcement of the conditions of this decision shall be by the Building Inspector or the ZBA to the extent permitted pursuant to the terms of M.G.L. c.40B, §§20-23 and 760 CMR 56.

2021 APR 14 A 10:47

61. No portion of the building, footings, foundation, or any other structure shall encroach into the Town's sewer easement.

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

- a. Submit to the Department of Public Works (DPW), in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all utilities, roadway, sidewalk and associated construction, and stormwater management systems. The file format shall be in accordance with the DPW's requirements. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered to the specifications of the DPW. in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet [or Meters, as required by the Town].
- b. Submit to the Building Inspector as-built plans for all buildings in the Project.
- c. Complete all items on the Department of Public Works' site construction punch list.

63. The Applicant shall pay all permit application fees normally charged by the Town.

64. This Permit is granted to the Applicant and, prior to substantial completion of the Project, this Comprehensive Permit may not be transferred or assigned to any party without approval of the Subsidizing Agency and notice to the ZBA, as required by 760 CMR 56.05(12)(b). The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the Applicant and the successors and assigns of the Applicant, and the obligations contained herein shall run with the land. In the event that the Applicant sells, transfers, or assigns a portion or all of its interest in the development, this Comprehensive Permit shall be binding upon the purchaser(s), transferee(s), or assignee(s) and any successor purchasers, transferees or assignees.

65. Any and all references to the "Applicant" herein shall include any authorized successors or assigns of the Applicant, including, but not limited to, all individual unit tenants. The terms, provisions and conditions of this Permit shall burden and benefit the successors and assigns of the Applicant with the same effect as if mentioned in each instance where the Applicant is named or referred to.

66. Any changes to the Project must be reviewed by the ZBA in accordance with the procedure set forth in 760 CMR 56.05(11).

67. The Applicant shall comply with all local regulations and bylaws as of the date of this Permit, except for those which are specifically waived in accordance with the Exceptions granted in "Waivers" section above or as otherwise expressly set forth in this Decision.

68. This Permit shall become void if the Applicant does not commence with development of the Project as approved herein within three (3) years of the date this Permit becomes final, in accordance with 760 CMR 56.05(12). Commencement of development shall mean that the Applicant obtains a building permit for the construction of the Project and commences substantive construction work under that permit. The ZBA may grant extensions for good cause.

69. All construction of the Project shall be completed within four (4) years from the date of issuance of the building permit unless a request is filed with, and approved by, the ZBA extending such time.

70. If any provision of this Comprehensive Permit or portion of such provision or the application thereof to any person or circumstances is for any reason held invalid or unenforceable, the remainder of this Comprehensive Permit (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

**Additional Conditions Included in the March 15, 2021
Decision of the Housing Appeals Committee:**

(a) The development, consisting of 20 total units, including five affordable units, shall be constructed substantially as shown on plans entitled "#680 Worcester Street, Chapter 40B Comprehensive Permit," dated May 9, 2016 (rev. 11/14/17), by Hayes Engineering, Inc. (Exhibit 3) and "680 Worcester Street," Sheet A7, dated 11.14.17 (rev. 5.21.19), by Grazado Velleco Architects (Exhibit 4), and shall be subject to those conditions imposed in the Board's decision of July 11, 2019, filed with the Wellesley Town Clerk on July 17, 2019 (Exhibit 2), as modified by this decision.

(b) The developer shall submit final construction plans for all buildings, roadways, stormwater management system, and other infrastructure to Wellesley town staff or officials for final comprehensive permit review and approval pursuant to 760 CMR 56.05(10)(b).

(a) Construction in all particulars shall be in accordance with all applicable local zoning and other by-laws in effect on the date of the submission of the developer's application to the Board, except those waived by this decision or in prior proceedings in this case.

(b) The subsidizing agency or project administrator may impose additional requirements for site and building design so long as they do not result in less protection local concerns than provided in the original decision or by conditions imposed by this decision.

(c) If anything in this decision should seem to permit the construction or operation of housing in accordance with standards less safe than the applicable building and site plan requirements of the subsidizing agency, the standards of such agency shall control.

(d) Construction and marketing in all particulars shall be in accordance with all presently applicable state and federal requirements, including, without limitation, fair housing requirements.

(e) No construction shall commence until detailed construction plans and specifications have been reviewed and have received final approval from the subsidizing agency, until such agency has granted or approved construction financing, and until subsidy funding for the project has been committed.

(f) This comprehensive permit is subject to the cost certification requirements of 760 CMR 56.00 and DHCD guidelines issued pursuant thereto.

2021 APR 14 A 0:47
2021 APR 14 A 0:47

2021 APR 14 A 10:47
2021 APR 14 A 10:47
2021 APR 14 A 10:47
2021 APR 14 A 10:47

ZBA 2018-64
Petition of 680 Worcester Road, LLC
680 Worcester Road

APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE
PURSUANT
TO GENERAL LAWS, CHAPTER
40A,
SECTION 17, AND SHALL BE
FILED
WITHIN 20 DAYS AFTER THE
DATE
OF FILING OF THIS DECISION IN
THE
OFFICE OF THE TOWN CLERK.

Robert W. Levy (L.M.)
Robert W. Levy, Acting Chairman

J. Randolph Becker (L.M.)
J. Randolph Becker

Derek B. Redgate (L.M.)
Derek B. Redgate

ZBA 2018-64
Applicant 680 Worcester Road, LLC
Address 680 Worcester Road

2021
11/10/18
Wellesley
MA
Town Clerk

NOT VALID FOR RECORDING UNTIL CERTIFIED BY TOWN CLERK

In accordance with Section 11 of Chapter 40A of the Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Town Clerk for the Town of Wellesley, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Date:

Attest:

Cathryn Jane Kato
Town Clerk

cc: Planning Board
Inspector of Buildings

Docketed 8/119/2022

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

Superior Court Department
Civil No. 1982CV01008

PETE BUHLER, et al.,
Plaintiffs,
v.
680 WELLESLEY ROAD, LLC, et al.,
Defendants

STIPULATION OF DISMISSAL

Pursuant to Mass. R. Civ. P. 41(a)(1)(ii), all parties stipulate that this action be dismissed with prejudice, waiving all rights of appeal. The parties shall each bear their own costs, including attorneys' fees.

DEFENDANT,
680 WORCESTER ROAD, LLC

By their attorneys,

/s/ Mark W. Corner

Alan L. Braunstein, BBO #546042
Mark W. Corner, BBO #550156
Riemer & Braunstein LLP
100 Cambridge Street, 22nd Floor
Boston, Massachusetts 02114-2527
(617) 880-3418
mccorner@riemerlaw.com

PLAINTIFFS,

By their attorneys,

/s/ Dennis A. Murphy

Daniel C. Hill (BBO #644885)
Dennis A. Murphy (BBO #645168)
HILL LAW
6 Beacon Street, Suite 600
Boston, MA 02108
P: 617-494-8300
dhill@danhilllaw.com

DEFENDANT,
WELLESLEY ZONING BOARD OF
APPEALS,

/s/ Christopher H. Heep

Christopher H. Heep, Esq. (BBO #661618)
Miyares and Harrington, LLP
40 Grove Street, Suite 190
Wellesley, MA 02482

August 18, 2022

Certificate of Service

I hereby certify that I have served of a copy of the foregoing on all counsel of record, by electronic mail, this 18th day of August 2022.

/s/ Dennis A. Murphy

Dennis A. Murphy