



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: April 3, 2024
MEETING DATES: April 10, 2024
TO: Zoning Board of Appeals
FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Katie Whewell, Chief Planner for Current Planning
Alyssa Sandoval, Deputy Chief Planner for Current Planning
Cat Kemmett, Senior Planner

COPIED: Mayor Ruthanne Fuller
City Council

In response to questions raised at the Zoning Board of Appeals public hearings on May 24, July 24, September 27, November 8 in 2023, and January 24 and March 13 in 2024, the Planning Department is providing the following information for the upcoming continued public hearing/working session. This information is supplemental to staff analysis provided at previous public hearings.

PETITION #04-23

528 Boylston Street

Toll Bros. Inc., requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a six-story all-residential development with 184 residential units on 5.82 acres of land located at 528 Boylston Street; 0, 502-504, 516 Boylston Street; 0 Hagan Road; and 24-26, 32-34 Hurley Place in the SR1, SR2 Zoning Districts. The proposal includes 50 affordable units and 227 parking stalls.

The Zoning Board of Appeals (Board) opened the public hearing on this petition on May 24, 2023. This item was held open at that meeting and subsequent meetings for the petitioner to respond to questions and concerns raised by members of the public, the Board, and the Planning Department.

EXECUTIVE SUMMARY

The applicant, Toll Brothers, Inc., is seeking a Comprehensive Permit pursuant to Massachusetts General Laws Chapter 40B, Sections 20 through 23, to develop 528 Boylston Street into an all-residential multifamily development. The subject property comprises approximately 253,454 square feet (5.82 acres) on seven lots in the Single Residence 1 (SR-1) and Single Residence 2 (SR-2) zoning districts on the eastbound side of Boylston Street (Route 9) in the Chestnut Hill area of Newton. To date six public hearings have been held for this item.

On March 29, 2024 the applicant submitted the following new materials:

- Sign Plan (submitted March 29, 2024)
- Boylston Street/Route 9 Improvement Concept Plan (submitted March 29, 2024)
- Revised landscape plan (submitted April 2, 2024)
- Revised civil plan (submitted April 2, 2024)

The project materials submitted for review [can be found on the City's website here](#). Staff from BETA, the City's peer reviewer for transportation, will join Planning staff at the public hearing on March 13 to answer questions related to traffic and transportation. Planning and Law staff have developed a set of draft proposed conditions (Attachment A) for review if and when the time is appropriate. Several elements of these conditions must still be discussed in further detail by the Board and have yet to be finalized. In particular, the mitigation conditions still need further refinement to determine which City Staff are required, if any, to review and approve the proposed work done along Route 9, which may be solely within the state's jurisdiction.

I. Overview of major topics

Units: The initial proposal for the development in May 2023 was for an all-residential development with 244 residential units. The current iteration has 184 units in total. 10 units will be accessible, and 3 of those accessible units will be affordable.

Affordable units: The original proposal included 61 units to be made deed restricted permanently affordable to households earning up to 80% of the area median income (AMI). The proposed project now consists of 50 affordable units with 37 units available at households earning up to 80% AMI and 9 units at households earning up to 50% AMI.

FAR: The project was initially proposed at a FAR of 1.95 and lot area per unit of 1,039 sq ft. The project now has a FAR of 1.43, and lot area per unit of 1,377 square feet.

Massing and scale: The building was initially proposed as an “H” shape facing out on Boylston Street spanning approximately 382 feet long at the ground level. Overall, the shape and orientation of the building is similar to this design. However, the structure has been modified to further break up the massing. The roof line initially was very flat, but now has some peaked roofs. The design was also revised to increase the setback of the topmost floor (which reads as the fifth floor from the street), reducing the visual impact from Boylston Street. The rear of the building was also pulled away from the Hagen Road abutters, with the rear setback increasing from 34.8 feet to 69.1 feet with additional buffering.

Boylston Street frontage: The project’s front setback from Boylston Street increased from 20 to 30 feet. The applicant has refined plans for improvements along the Boylston Street frontage, incorporating a wider green buffer as suggested by design consultants NBBJ. Based on the applicant’s conversations with MassDOT, a guardrail might not be needed, and any trees planted in this area will be limited to small vegetation that will not impact sightlines.

Parking: 385 parking stalls were initially proposed (a ratio of 1.6 stalls per unit). The current design has 236 parking stalls (1.28 per unit), with the majority in a below-grade garage which is partially exposed along the eastern edge of the building. The original design featured short-term surface parking along the west side of the building, which has been moved to an autocourt at the front of building. Two of the nine surface stalls will be ADA compliant, and 5 of the 227 garage stalls will be ADA compliant. 20% of stalls will be EV equipped, and an additional 30% will be EV ready. A minimum of 50 bicycle parking stalls will be available in the dedicated bike room at the west side of the building.

Access: Initially, vehicular access to the site was proposed via one driveway intersecting with eastbound (south) side of Boylston Street with two curb cuts and movements in and out of the driveway limited to right-turn only. Based on feedback received, the applicant has since revised this design to have two driveways (the main entrance and the visitor entrance) and four curb cuts.

Stormwater: The applicant has not requested relief from the city’s stormwater ordinance, so the project must comply with city and state stormwater regulations. Based on concerns raised throughout this review process, the applicant has conducted further test pit and groundwater testing and expanded and improved their stormwater management infrastructure. The current design will include infiltration systems, new flood storage capacity, and new trees in the buffer zone and outer riverfront area. The Conservation Commission may also require further measures required by an Order of Conditions. After extensive review by City staff and stormwater consultation from

Horsley Witten, the Planning Department believes the project is on track to meet or exceed what is required in terms of drainage and stormwater management.

Open space: The petitioner initially proposed 65.3% open space, which has been increased to 68% in the current plan. Per feedback from the Board and the public, the turf dog park initially proposed at the northwest corner of the site has been replaced with a rain garden. The programming for open space on the site includes a walking path (recently reduced to five feet) connecting Boylston Street to Hagen Road, a private courtyard, playground, patio area, and landscaped entry plaza. A significant portion of the site will remain undeveloped wetland.

Trees: In total, 2,517 caliper inches will be removed from the existing site and 941 inches will be replaced. This is a shortfall of 1,576 inches, an improvement over the original shortfall of 2,268 inches proposed in March 2023. This will require a contribution to the tree fund of approximately \$615,000, with the final number to be confirmed by the City's urban forester during the building permit application, should this project be approved.

II. Updates

Mitigation: The petitioner has refined their proposed mitigation efforts for the project. The applicant has estimated the value of this work to be approximately \$1,575,000, and they have proposed to provide an additional cash payment of \$500,000 to the City for further mitigation efforts. Many of these are off-site with the exception of b, which includes substantial work to be done along the project's frontage in consultation with MassDOT:

- a. The applicant will extend the existing island closest to the site out to Sheldon Road and widen the box for an additional acceleration/deceleration lane. This allows for easier acceleration of cars merging eastbound from Parker Street, Sheldon Road, and Olde Field Road. The planned deceleration lane will allow traffic to slow down to a safer speed to make the right turn to the Project without affecting the main flow of traffic.
- b. Sidewalk improvements will be implemented along the site frontage, which will make for a safer and more pleasant experience for pedestrians. The sidewalk will be repaved and widened to five feet in width, and moved further from the road and a green landscaped buffer will be constructed.
- c. The applicant will extend the planned Safe Routes to School path from Olde Field Road to Dudley Road.
- d. Sidewalk and crosswalk improvements will be constructed at Hagen Road.

The applicant has also submitted conceptual plans for all the improvements mentioned above. Should the project be approved, these plans will be referenced in the Decision.

Signs: The applicant has submitted a more detailed sign plan dated March 25, 2024. The sign plan includes two blade signs proposed at 73.33 square feet displaying the address or future name of the building, which will be installed on the side of the building visible as someone approaches the driveway entrance from Boylston Street and the other will be along the Boylston Street frontage. Three monument signs are proposed. The largest at the main entrance in front of the autocourt is proposed at 6.5 feet wide by 6 feet tall, with a 4 foot by 4 foot horizontal sign and 1.5 foot by 6 foot vertical sign proposed at main driveway entrance. These five signs will require relief, which the applicant has requested in the list of waivers as part of their application.

Multi-Use Path: The applicant has provided a revised civil and landscaping plan showing several changes to the proposed path. Initially proposed at 10 feet in width, the path is now proposed at 5 feet wide. This no longer meets the minimum width for a true shared use path (8 feet) and this is now considered a walking path. Low level lighting has been added along the length of the path, which would time-limited to shut off at 9:00 pm. Additionally, a further 23 trees (14 arbor vitae and 9 white pine) are now proposed between the path and the wetlands to increase screening for neighbors on Olde Field Road.

III. Next Steps

The Planning Department will continue to review the proposal and provide updated and expanded memoranda in advance of future ZBA hearings.

ATTACHMENTS

Attachment A Proposed draft conditions

PROPOSED CONDITIONS

Proposed General Conditions

1. All buildings, parking areas, driveways, walkways, landscaping, and other site features associated with this Comprehensive Permit shall be located and constructed consistent with the plans identified in Schedule A, which are incorporated by reference (collectively, the “Approved Plans”).
2. Prior to the issuance of any building permits, the Applicant shall submit a complete final set of architectural plans including elevations, signed and stamped by an architect, and dimensioned site plans, engineering plans, storm water drainage plans, landscaping plans, and utility plans, signed and stamped by a professional engineer, consistent with the Approved Plans referenced in Condition #1. To the extent that the final plans referenced in this Condition differ from the Approved Plans, the Applicant shall request a consistency ruling from the Commissioner of Inspectional Services.
3. With respect to the Applicant’s request for waivers from local ordinances and regulations, the Board approves only those waivers listed in this Decision. The Project shall comply with all applicable local ordinances, rules, and regulations not expressly waived, including the payment of all applicable permit fees. The Project shall also comply with all applicable state and federal laws, codes, regulations, and standards.
4. The City will not issue a building permit for the Project without final approval from the Subsidizing Agency.
5. Before any site clearing, grading, demolition, or construction may begin on site, the Applicant shall submit a municipal lien certificate that shows all assessments and betterments have been paid in full and there are no outstanding municipal liens on the property.
6. Prior to the issuance of any building permit for the Project, the Applicant shall provide an Approval Not Required (“ANR”) or “81X” plan combining the two lots into one lot to the City Engineer for review and approval. Once approved, the plan must be recorded at the Middlesex South Registry of Deeds. A certified copy of the recorded plan shall be submitted to the Engineering Division of Public Works and the Commissioner of Inspectional Services.
7. Unless extended by the Newton Zoning Board of Appeals upon a finding of good cause, this Comprehensive Permit Decision shall lapse and become void if construction is not commenced within three years of the date on which it is filed with the City Clerk, not including the time required to pursue or await the determination of an appeal pursuant to G.L c. 40B. For purposes of this paragraph only, commencement of construction is defined as the issuance of a building permit (other than a demolition permit) for all or any portion of the Project.

8. This Comprehensive Permit Decision, and all conditions herein, shall run with the land and be binding on any heirs, successors, or assigns of the Applicant. In the event that this Project, the comprehensive permit, or any of the obligations therein are sold, transferred, or otherwise made the obligation(s) of an entity other than the original Applicant, the successor or assignee shall be bound by all of the terms and conditions of this Comprehensive Permit Decision.

Proposed Housing Conditions

9. The Project shall include 184 units of rental housing, as listed in the following table:

Unit Type	Total Number of Units	Number of Affordable Units
Studio	0	0
One Bedroom	36	8
Two Bedroom	90	22
Three Bedroom	58	16

10. Twenty five percent (25%) of the units in the Project, which is 46 units, shall be affordable housing units, as follows (“the Affordable Units”):
- a. Thirty-seven (37) of the units in the Project shall be made available to households earning at or below 80% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA (“Moderate-Income Units”). The AMI used for establishing rent and income limits for the Moderate-Income Units must not exceed 80% of AMI.
 - b. Nine (9) of the units in the Project shall be affordable to households at or below 50% of Area Median Income (AMI), as designated by the U.S. Department of Housing and Urban Development, adjusted for household size for the Boston-Cambridge-Quincy, MA-NH HMFA (“Low-Income Units”). The AMI used for establishing rent and income limits for the Low-Income Units must not exceed 50% of AMI.
11. All 46 Affordable Units shall be and shall remain deed-restricted affordable in perpetuity at the affordability levels set forth herein through the execution of the Regulatory Agreement.
12. All units, including both the Affordable Units and the market rate units, shall be eligible for inclusion on DHCD’s Subsidized Housing Inventory (SHI) in perpetuity in accordance with DHCD Guidelines.
13. Unless otherwise required by the subsidizing agency, the Affordable Units shall be dispersed evenly throughout the Project. The Low-Income Units shall have approximately the same bedroom "ratio" or "mix" as the other units in the Project.
14. The Affirmative Fair Housing Marketing and Resident Selection Plan shall meet the requirements of EOHLC’s Guidelines for G.L. c. 40B Comprehensive Permit Projects.

The Applicant shall provide evidence of the subsidizing agency's approval of the Affirmative Fair Housing Marketing and Resident Selection Plan prior to commencing any marketing of the units.

15. At no point will the number of Certificates of Occupancy issued for Affordable Units be less than 25% of all Certificates of Occupancy issued.
16. No unit or building shall be constructed to contain or be marketed and/or rented as containing more bedrooms than the number of bedrooms indicated for said unit in the Approved Plans referenced in Condition #X and Condition #X.
17. A second Regulatory Agreement (the "City Regulatory Agreement"), in a form approved by the City Law Department, shall be entered into by the Applicant and the City and shall be executed and recorded prior to the expiration of the initial Regulatory Agreement and shall remain effective for as long as the Project exists. The Applicant shall enter into the City Regulatory Agreement to continue such restrictions and the terms of the City Regulatory Agreement shall be consistent with the terms of this Decision and with the customary terms of the City's Regulatory Agreements. At a minimum, the City Regulatory Agreement shall require: (i) that the Project shall remain 25% affordable in perpetuity; (ii) that 25% of the units in the Project shall be affordable and rented to low and moderate income households as that term is defined in G.L. c. 40B, §§ 20-23 as set forth in Conditions #X and #X; and (iii) annual monitoring and reporting to ensure compliance. The City Regulatory Agreement shall constitute a restrictive covenant and shall be recorded against the Property and shall be enforceable by the City.

Proposed Mitigation & Offsite Improvement Conditions

18. The Applicant shall make payments in the aggregate amount of \$582,183.00 to the City for infrastructure improvements for inflow and infiltration (I&I). Payments shall be made as follows:
 - a. \$291,091.50 prior to the issuance of the first building permit for the vertical construction of the Project; and
 - b. \$291,091.50 prior to the issuance of the first dwelling unit occupancy permit (temporary or final) in the Project.
19. The Petitioner shall make payments in the aggregate amount of \$500,000.00 to the City for off-site transportation, pedestrian, or safety improvements or mitigation in the vicinity of the Project. The Petitioner's payments shall be made to a municipal account dedicated for such mitigation and improvements as follows:
 - a. \$250,000 prior to the issuance of the first building permit for the vertical construction of the Project; and

- b. \$250,000 prior to the issuance of the first unit occupancy permit (temporary or final) in the Project.
20. The Applicant shall design and construct, at no cost to the City, the Route 9 roadway and sidewalk improvements as shown on the “Conceptual Access/Egress Plan,” revised through March 27, 2024 and referenced in Schedule A, including the extended island, safe routes to school extension to the western side of Olde Field Road and Boylston Street intersection, acceleration and deceleration lane, and improvements to the site’s frontage (hereinafter the “Route 9 Improvements”) as follows:
 - a. Prior to the issuance of the first building permit for the vertical construction of the Project, the Applicant shall submit design plans for the Route 9 Improvements to MassDOT for approval through the access permit process.
 - b. The Applicant shall simultaneously submit all MassDOT submissions and plans to the Commission of Public Works and Director of Planning and shall provide copies of all comments and responses in a timely manner. The Applicant shall periodically meet with City officials during the MassDOT approval phase to solicit input and feedback on the design.
 - c. Any material modifications to the final design of the Route 9 Improvements by MassDOT will be consisted consistent with the conceptually approved plan if, in the opinion of the Commissioner of Public Works and Director of Planning, the modified design achieves the same performance objectives as the conceptually approved design.
 - d. Prior to the issuance of a certificate of occupancy (temporary or final) for the final dwelling unit, the Applicant, at its sole costs and expense, construction of the Route 9 Improvements shall be substantially complete and operationally approved by MassDOT. The Commissioner of Inspectional Services may, in their discretion, issue a temporary certificate of occupancy prior to final completion of the Route 9 Improvements provided that the Applicant posts a bond or other security in the form satisfactory to the Commissioner of Inspectional Services in an amount not less than 135% of the value of the remaining work to be performed.
21. The Applicant shall at its own costs and expense install two (2) speed feedback signs on Dudley Road in consultation with the Commissioner of Public Works. The speed feedback signs shall be installed prior to the issuance of any (temporary or final) certificate of occupancy for any residential dwelling unit.
22. Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit design plans for sidewalk and crosswalk improvements at the Hagen Road and Adeline Road intersection as shown on Exhibit 2 “Conceptual Pedestrian Improvements Plan” of the December 20, 2023, MDM Transportation Consultants Memorandum referenced in Schedule A to the Director of Planning and Commissioner of Public Works for review and approval. The design shall include crosswalks and pedestrian

curb ramps. Upon the City's approval of the design and location, the Applicant shall, at its sole cost and expense, construct and install all infrastructure of the approved design and have the improvements inspected and approved by the Department of Public Works prior to the issuance of the certificate of occupancy (temporary or final) for the final dwelling unit.

Proposed Construction Conditions

23. The Applicant shall pay the reasonable fees for review of the building permit plans or documents described herein or for inspections required during the construction phase.
24. All construction activity shall be limited to 7:00AM-7:00PM Monday through Friday and 8:00AM-7:00PM on Saturdays, excluding holidays, unless waived by the Mayor in accordance with Revised Ordinances, §20-13. Interior work may occur at times outside of the hours specified above, but only after the building is fully enclosed.
25. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition or building permit, the Petitioner, at its sole cost and expense, shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity, and a plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Inspectional Services Department for review and approval prior to issuance of any demolition or building permit. A copy of such approval shall be provided to the Department of Planning and Development.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action the Operator deems necessary to control pest infestation and migration.
 - d. Prior to issuance of the final certificate of occupancy, the Pest Control Operator shall file a final report with the Department of Planning and Development and Inspectional Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction assessment of the site and the neighborhood.
 - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final), the petitioner shall offer and provide, at its sole cost and expense, rodent abatement services on an as needed basis for all direct abutters and abutters to direct abutters, subject to owner authorization of such properties and a waiver of liability.

26. The Petitioner shall implement the following measures to mitigate and reduce significant vibration impacts caused by construction equipment:
- a. Prior to the issuance of a demolition or building permit for any demolition, site work, or construction activities that require (i) the driving of piles or piers, (ii) the removal or alteration of ledge, or (iii) soil reinforcement or compaction by vibratory roller, other than compaction of soil for decks, patios, landscaping work, sidewalks, driveways, retaining walls, or accessory buildings under 700 square feet, the Petitioner shall submit the following to the Commissioner of Inspectional Services:
 1. A vibration control plan signed and stamped by a licensed and insured geotechnical consultant that determines the scope of preconstruction surveys needed; the basis for that determination; and the recommended vibration level limits and monitoring services to be provided for the duration of the construction activity.
 2. Proof of notice to all properties within such scope that a preconstruction survey was offered at no cost to the property owner.
 3. A list of all properties that were surveyed.
 4. Any other plans or specifications as the Commissioner of Inspectional Services may require, including but not limited to revisions to the submitted vibration control plan.
 - b. As an alternative to the required vibration control plan and other required submissions set forth in paragraph (a) above, the Petitioner may submit a signed and stamped letter from a licensed and insured geotechnical consultant stating that a vibration control plan and monitoring are not necessary based on the scope of the work, site conditions, or construction methods. Such letter must detail the basis of the opinion that no vibration control plan, monitoring, or controls are necessary. No additional submissions will be required unless the Commissioner of Inspectional Services or their designee determines that compliance with Sec. 5-23(a) is necessary due to the nature of the site or the proposed work.
 - c. The submitted vibration control plan shall be implemented and adhered to during all relevant construction activity. The Petitioner shall keep a record of all monitoring and shall provide copies to the Commissioner of Inspectional Services upon request.
 - d. Following construction and prior to the issuance of a certificate of occupancy, all properties subject to a preconstruction survey shall, subject to owner approval, be reinspected to determine any damages caused by vibration.
27. Any portions of the project subject to the jurisdiction of the Conservation Commission must receive an Order of Conditions from the Conservation Commission prior to the issuance of any building permit for work on the project that is subject to such jurisdiction.
28. Prior to the issuance of any building permit for the Project the Applicant shall submit a Construction Management Plan ("CMP") for review and approval by the Commissioner of Inspectional Services; the Director of Planning and Development; the Commissioner of Public Works; the Commissioner of Parks, Recreation, and Culture; the City Engineer; and

the Chief of the Fire Department. The Applicant shall comply in all material respects with the final Construction Management Plan, which shall be consistent with and not in conflict with relevant conditions of this Decision and shall include, but not be limited to, the following provisions:

- a. 24-hour contact information for the general contractor of the Project.
 - b. The proposed schedule of the project, including the general phasing of the construction activities and anticipated milestones and completion dates.
 - c. Site plan(s) showing the proposed location of contractor and subcontractor parking, on-site material storage area(s), on-site staging area(s) for construction and delivery vehicles, and location of any security fencing.
 - d. Proposed methods for dust control including, but not limited to, covering trucks for transportation of excavated material; minimizing storage of debris on-site by using dumpsters and regularly emptying them; using tarps to cover piles of bulk building materials and soil; and locating a truck washing station to clean muddy wheels on all trucks and construction vehicles before exiting the site.
 - e. Proposed methods of noise control, in accordance with the Revised Ordinances, §20-13. Staging activities should be conducted in a manner that will minimize off-site impacts of noise. Noise-producing staging activities should be located as far as practicable from noise sensitive locations.
 - f. Tree preservation plan to define the proposed method(s) for protection of any existing trees to remain on site.
 - g. The CMP shall also address the following: safety precautions; anticipated dewatering during construction; site safety and stability; and impacts on abutting properties.
29. The Applicant shall be responsible for securing and paying police details that may be necessary for traffic control throughout the construction process as required by the Police Chief.
30. The Applicant shall be responsible for repairing any damage to public ways and public property caused by any construction vehicles traveling to or from the Site. All repair work shall be done prior to the issuance of the final certificate of occupancy for the final dwelling unit in the Project, unless the Commissioner of Public Works determines either: (a) that the damage to the public way is so extensive that it limits the use of the public way; (b) that the damage interferes with traffic flow; or, (c) that the damage poses a threat to public safety. In such cases, the repair work must be initiated within one month of the Commissioner's making such determination, shall be conducted consistent with City Construction Standards, and shall be completed within an appropriate time frame as determined by the Commissioner.

31. All sidewalks and the path located within the Site shall be designed as shown on the Approved Plans referenced in Schedule A and shall be open to the public. All internal roadways shall be designed as shown on the Approved Plans, referenced in Schedule A.
32. All sidewalks and pedestrian ramps located within the Site or along the Site's frontage shall be ADA compliant unless a variance for noncompliance is granted by the Massachusetts Architectural Access Board. Applicant shall submit a letter of compliance prepared by a professional engineer registered in the state of Massachusetts to the Director of Planning and Development prior to the issuance of any certificate of occupancy (temporary or final) for the final dwelling unit.
33. The Applicant shall underground all lateral utility connections from the right of way to the structure(s) as well as utility connections internal to the Site.
34. Prior to the issuance of any building permit for the Project (other than a demolition permit), the Applicant shall prepare and submit a final Site Plan and Site Circulation Plan for review and approval by the Chief of the Fire Department that confirms the Fire Department will have sufficient access to all buildings, confirms that fire access will function safely, and shows all hydrants and fire connections, and other features as may be required for Fire Department approval.
35. Prior to the issuance of any building permit for the Project (other than a demolition permit), the Applicant shall submit final engineering, utility, drainage plans, a Long-Term Pollution Prevention Plan (LTPPP), and an Operations and Maintenance Plan for stormwater management ("O&M Plan") for review and approval by the City Engineer. Once approved, the O&M Plan must be adopted, implemented, and maintained by the Applicant and recorded at the Middlesex South District Registry of Deeds. A copy of the recorded O&M Plan shall be filed with the Engineering Division of Public Works, the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
36. Prior to the issuance of any building permit for the Project (other than a demolition permit), the Applicant shall confirm to the satisfaction of the Engineering Division the adequacy of the closed pipe sizes.
37. Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall submit a final photometric plan detailing lighting location and levels to the the Department of Planning and Development for review and approval.
38. The Applicant shall notify the City and provide copies of any filings made in accordance with the Massachusetts Contingency Plan relating to any historical release of hazardous materials or the discovery of any new release.

Proposed Sustainability Conditions

39. The Applicant shall design the Project to meet Passive House standards and achieve certification in accordance with Passive House Institute US (PHIUS), the Passive House

Institute (PHI), or other recognized Passive House Standards and/or certification organization. The Applicant shall comply with all applicable sustainable design provisions set forth in Section 5.13 of the Revised Ordinances.

40. The Applicant shall complete an embodied carbon analysis to guide materials selection during design and construction. The analysis will include but not be limited to materials for concrete, framing, cladding, and insulation. Such analysis shall be provided to the Director of Planning and Development prior to the issuance of the first building permit for vertical construction of the Project.
41. Twenty percent (20%) of all parking stalls shall be equipped with electric vehicle charging stations and an additional 30% will be EV ready.
42. The Applicant shall utilize sustainable building materials and systems including, but not limited to:
 - a. water efficient domestic plumbing fixtures;
 - b. energy efficient light fixtures;
 - c. programmable thermostats;
 - d. building-level and unit-level electricity and water metering;
 - e. building systems commissioning;
 - f. low VOC building materials and finishes;
 - g. fresh air supply and bathroom and kitchen exhaust provided in every apartment; and
 - h. construction and demolition waste will be recycled and diverted, as possible, by the receiving facility.

Proposed Traffic/Parking Conditions

43. The Project shall include 236 parking stalls.
44. Of the nine (9) visitor parking stalls, at least two (2) shall be ADA accessible.
45. The cost of tenant parking for market-rate units shall be charged separately from residential tenant rents, and the rental period cannot commence prior to, nor extend past the end of, the rental period of the unit.
46. One (1) parking stall shall be available for each Affordable Unit without charge to the tenant of such unit.
47. The Applicant shall provide storage for at least 40 bicycles within the building or garage as shown in the approved plans. Outdoor storage for fourteen (14) additional bicycles will be provided on the Site as shown on the approved plans. These plans are referenced in Schedule A.
48. The Applicant shall implement a Transportation Demand Management Plan to reduce reliance on motor vehicle transportation. The Plan shall be submitted to the Director of

Planning and Development prior to the issuance of the first building permit for vertical construction of the Project for review and approval and shall include, but not be limited to, the following:

- a. Commit \$150,000 to an alternative transit reimbursement fund, to be funded over three years beginning with the first certificate of occupancy. This fund will be used to provide reimbursements for MBTA transit passes, bikeshare programs and similar alternate transportation methods to reduce single-occupancy vehicle trips for all residents and employees. To the extent that funds remain unused five years following the issuance of the final certificate of occupancy, the Applicant will contribute the unused balance to the City for use toward other neighborhood transit projects. The Applicant shall provide reports each year, annually on the anniversary of the issuance of the certificate of occupancy, of the number of transit passes issued and funds expended pursuant to this condition. The Applicant shall ensure that each unit is entitled to equitable access to this fund to ensure each unit has the opportunity to use alternate transit with the goal of reducing vehicle trips.
- b. Onsite Transportation Coordinator.
- c. Disseminating information on alternate travel modes.
- d. Distributing transit maps, schedules, and passes.
- e. Monitoring TDM effectiveness through surveys and other tools and adjusting as necessary.
- f. Establishing and maintaining a website, or on-site transit information display, providing travel-related information and promoting awareness of alternative travel modes.
- g. Indoor bike storage and fix-it station for residents, outdoor bike racks, and standard outlets for electrical bicycle charging in the indoor parking area for 10% of all indoor bicycle spaces.
- h. Dedicated electric vehicle/low emission car parking in parking garage by designating spaces and providing electric vehicle charging stations for 20% of all garage parking spaces.
- i. “Unbundling” of parking costs from rent/leases except for affordable units.
- j. The Applicant will buy or lease two EV vehicles as part of an EV car share service available exclusively to participating residents of the building.
- k. Post Occupancy study of parking on Hagen Road from Olde Field Road to eastern terminus and Adeline Road from Hagen Road to Haynes Road. The study shall be completed between 12-18 months following the issuance of the final certificate of

occupancy and shall include monitoring over a weeklong period during a non-winter period when schools are in session. The Applicant will share a summary of the study with the Director of Planning and Development.

Proposed Ongoing Conditions

49. The landscaping shown on the approved plan shall be maintained in good condition. The plantings shall be inspected annually, and any plant material that has become diseased or dies shall be replaced in a timely manner with similar material.
50. The path internal to the Site shall be lit with low level photocell lights scheduled to turn off at 10 PM and turn on no earlier than 6 AM, unless otherwise permitted by the Director of Planning and Development in order to address safety concerns.
51. The Applicant shall be responsible at its sole cost for trash and recycling disposal for the Project.
52. The Applicant shall be responsible for keeping the internal roadways and sidewalks, and all portions of the internal pedestrian path clear of snow to always ensure safe and reliable access to and from all buildings. To the extent snow removal is necessary, such removal shall be conducted pursuant to a Snow Removal Plan, which shall be maintained on file at the Project and be available for review upon request by the Director of Planning and Development.
53. The Applicant shall be responsible in perpetuity for the maintenance of the internal pedestrian path to be constructed by and at the Applicant's sole expense.