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By Brenda Belsanti, ZBA Clerk at 11:23 am, Nov 01, 2023



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Mayor

# CITY OF NEWTON, MASSACHUSETTS

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## ZONING BOARD OF APPEALS

Brenda Belsanti, Board Clerk

**RECEIVED**

By City Clerk at 11:59 am, Nov 01, 2023

### DECISION

**160 Charlemont Street and 56 Christina Street, Newton, Massachusetts  
Comprehensive Permit**

**Decision Number:** #09-22

**Date Application Filed:** September 23, 2022

**Applicant:** Northland Charlemont LLC

**Premises Affected:** 160 Charlemont Street and 56 Christina Street,  
in Newton, Massachusetts, Assessor's Map 83030 0009 and 83030  
0010

**Relief Requested:** Comprehensive Permit, G.L. c. 40B, §§ 20-23

**Public Notice:** October 12, 2022 and October 19, 2022

**Public Hearing Dates:** October 26, 2022, December 21, 2022, January 25, 2023, February  
22, 2023, April 26, 2023, June 22, 2023, July 31, 2023, September  
13, 2023, and October 25, 2023

**Decision of the Board:** Approved with Conditions

**Members Voting:** Michael Rossi (Chair), Brooke K. Lipsitt (Vice Chair), William  
McLaughlin, Stuart Snyder, and Elizabeth Sweet

**Date of Decision:** October 25, 2023

## PROCEDURAL HISTORY

1. On August 8, 2022, the Massachusetts Housing Finance Agency (“MassHousing”) issued a Project Eligibility Letter (“PEL”) to Northland Charlemont, LLC (the “Applicant”).
2. On September 23, 2022, the Applicant Applied for a Comprehensive Permit pursuant to G.L. c. 40B, §§ 20-23 (the “Act”) to construct a mixed use development known as “Northland Charlemont” containing 410 residential rental units, including 103 affordable housing units, and approximately 10,689 square feet of ground floor commercial space (the “Original Project”) on approximately 6.98 acres of land located at 160 Charlemont Street and 56 Christina Street in Newton, Massachusetts (the “Site”).
3. During the course of the public hearing, based upon feedback from the Board, advisory groups, and residents, the Original Project underwent several revisions, ultimately resulting in a project with 370 residential rental units, including 93 affordable housing units, and no retail space (the “Project”). The final revision included a reduction in the Project’s height and revised program with residential units, affordability, and the elimination of commercial space.
4. The Zoning Board of Appeals for the City of Newton (the “Board”) opened a duly noticed public hearing on October 26, 2022 via Internet video conferencing, pursuant to Massachusetts executive order, Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, Section 20 (March 10, 2020), and Chapter 53 of the Acts of 2020, an Act To Address Challenges Faced by Municipalities and State Authorities Resulting from COVID-19 (April 3, 2020). Additional sessions of the public hearing were held on December 21, 2022, January 25, 2023, February 22, 2023, April 26, 2023, June 22, 2023, July 31, 2023, September 13, 2023, and October 25, 2023 all via Internet video conferencing pursuant to the aforementioned Executive Order and act as well as in person.
5. The Board conducted a duly noticed site visit on November 10, 2022.
6. The Board closed the public hearing on October 25, 2023.
7. The Board deliberated on the application at a public hearing held on October 25, 2023, and voted to grant a Comprehensive Permit subject to the Conditions listed below.
8. As required by the Act, the Board notified all applicable local boards, commissions, and departments of the filing of the Application by sending a copy thereof to such local boards, commissions, and departments for their recommendations, all of which have been made a part of the record of these proceedings and have been taken into consideration by the Board in rendering its decision.

9. During the course of the public hearing, City staff, boards/commissions, peer reviewers, local residents, and technical experts submitted extensive oral and written testimony with respect to the Project on issues of: site design; open space; landscaping; lighting; sewer and drainage; massing; scale; pedestrian scale; height; streetscapes/public realms; architecture; feasibility of the parking plan; geotechnical studies including but not limited to foundation method, construction means and methods, groundwater impact, soil conditions and testing for hazardous materials; construction management and planning; protection of abutters' properties during construction; emergency access during construction; sustainability; parking adequacy, design, management, and ratios; shadow impacts; traffic impact and access studies; traffic and pedestrian safety; traffic demand management; rubbish and recycling management; site circulation, access/egress; adequacy of transit service; signage; accessibility; water table, flooding, flood plain, and compensatory flood storage; stormwater management; integration and coordination of functions occurring in the ground plane including but not limited to truck deliveries, trash/recycling pickup, and loading zones; snow removal; engineering; infiltration and inflow; design; environmental concerns; greenspace and recreation areas; site control, and the City's Vision Plan for the Needham Street corridor.

10. The following consultants and independent peer reviewers assisted the Board in its review of the Application:

a. Transportation:

Jeff Maxtutis  
BETA Group, Inc.

b. Site Design, Open Space, Civil Engineering, Stormwater, Flooding:

Janet Bernardo  
Horsley Witten Group

c. Urban Design:

Alan Mountjoy and Don Girard  
NBBJ

11. The following representatives and members of the Applicant's development team presented oral and written testimony to the Board:

a. Stephen J. Buchbinder, Esq., Katherine Braucher Adams, Esq. Schlesinger and Buchbinder, LLP

b. Peter Standish, Senior Vice President, Northland Development, LLC

c. BK Boley, AIA, LEED-AP, Senior Principal, Stantec Architecture

d. James Gray, AIA, Senior Principal, Stantec Architecture

e. Randall C. Hart, Director, Transportation, Planning & Energy, Vanasse Hangen Brustlin, Inc.

f. Curtis Quitzau, PE, Director of Land Development, Vanasse Hangen Brustlin, Inc.

g. Chris Bridle, PLA/ASLA, Principal, Stantec Planning and Landscape Architecture

h. Dylan Martello of Steven Winters Associates

## FINDINGS

1. The Applicant received a PEL determination from MassHousing for the Original Project, and at least 25% of the units will be available to households earning up to 80% of Area Median Income (“AMI”), adjusted for household size, as published by the U.S. Department of Housing and Urban Development. In accordance with 760 CMR 56.04(6), the Board considers the issuance of the PEL to be conclusive evidence that the Project and the Applicant have satisfied the project eligibility requirements to receive a comprehensive permit.
2. The Board finds that the Applicant has complied with all the rules and regulations of the City of Newton as they pertain to the application for a comprehensive permit.
3. The Site is located at 160 Charlemont Street and 56 Christina Street in Newton, Massachusetts, in the Mixed Use 1 (MU1) Zoning District.
4. Existing conditions at the Site consist of approximately 304,308 square feet (6.98 acres) of land improved with several commercial/industrial buildings. A majority of the Site is impervious area. The Site and surrounding neighborhood are comprised of a mix of uses, including single- and multi-story commercial and industrial uses to the north and west and residential uses to the east of the Site.
5. The Site is located in an area directly served by MBTA bus route 59 and is approximately one mile from both the MBTA’s Newton Highland Green Line Station and Needham Heights commuter rail station. The Project also provides infrastructure and an anticipated stop for a potential area shuttle to service future residents of this Project.
6. The Project is consistent with several goals of Newton’s Comprehensive Plan by:
  - a. Development of an underutilized industrial site which locates additional housing units near transit and transit connections. The Project also provides a mix of units, offering studios, one-, two- and three-bedroom units as well as housing options available to income levels of 80% AMI and below and additional units at 50% AMI and below. The development of the site under Comprehensive Permit is specifically called out in the Comprehensive Plan (p. 5-10) to allow site specific relief to authorize additional housing than would otherwise be allowed.
  - b. The creation of recreational and passive open space along the project’s eastern boundary provides a thoughtful buffer to the single-family residential neighborhood to the east. The project’s open space accommodates shared uses for active and passive recreation while providing pedestrian and cycling links between Christina Street, the Charles River, and points south to points north of the site including Needham Street and other villages within the City of Newton consistent with the Comprehensive Plan (p. 7-3).

- c. The Project's commitments to Passive House construction, providing a significant amount of vegetated open space, commitments to infrastructure for electrical vehicles, and alternative modes of transportation are consistent with the environmental goals of the Comprehensive Plan (p. 8-9).
7. The Project is consistent with the principles of the Needham Street Vision Plan by:
  - a. Employing a building footprint to create the appearance of smaller blocks.
  - b. The creation of vehicular, cyclist, and pedestrian connections between Charlemont and Christina Streets. These parallel connections to Needham Street of smaller streets and walkways are specifically called out to reduce congestion and improve walkability.
  - c. The creation of publicly accessible vegetated open space between the project's structures and the residential neighborhood to the east support the Plan's goals by providing open space, pedestrian and cyclist connectivity, as well as a range of outdoor community gathering spaces.
  - d. Transitioning height and including step backs from the Project to the nearby built environment and providing side yard setbacks in excess of that required in the Mixed Use 1 Zoning District to mitigate potential impacts of the building to nearby uses.
8. The sustainability plan meets many of the City's goals outlined in the Climate Action Plan including:
  - a. Exceeding the Zoning Ordinance's sustainable development standards.
  - b. Reducing the heat island effect with Needham Street identified as a "hot spot" by redeveloping an impervious site to include open space, and plantings, with the building design and materials providing further mitigation and measures.
  - c. Constructing the buildings to Passive House certification and conducting an embodied carbon analysis during final design.
  - d. Transportation goals within the plan such as installation of EV charging, providing connectivity through the site for alternative modes of transportation, as well as a Transportation Demand Management plan.
  - e. Providing appropriate "climate friendly" housing near transportation.
9. The site is an appropriate location for the Project due to its location within the Mixed Use 1 (MU1) zoning district, proximity to the Needham Street corridor, and the creation of diverse residential options near transit and neighborhood amenities along Needham Street. The project supports the goals of both the Needham Street Vision Plan and Comprehensive Plan.
10. The Project provides outdoor community space that will be open to the public, providing active and passive recreational space, and stronger connectivity within the Needham Street area.

11. The Project will provide 93 deed-restricted housing units, 74 of which will be affordable to households earning up to 80% of Area Median Income, and 19 of which will be affordable to households earning up to 50% of Area Median Income. The Board finds the latter 19 units exceed the requirements of G.L. c. 40B. As conditioned by this decision, the proposed development is Consistent with Local Needs, as that term is defined in 760 CMR 56.02, and will provide housing for individuals with an AMI of 80% or less.
12. The Board finds that a development at this location is appropriate because it increases density without having an adverse impact on the neighborhood, the Project is structurally sound, has adequate sewage and water drainage arrangements, and adequate fire protection. The Project has adequate arrangements for dealing with traffic circulation within the site and provides connections that direct traffic off of Needham Street which is consistent with the Needham Street Vision Plan. The Site is not proximate to airports or other activities which may affect the health and safety of the occupants of the proposed housing, and the Project has adequate parking arrangements.
13. In accordance with Chapter 29, §§ 167-174 of the Revised Ordinances of Newton, Massachusetts, 2017 (hereinafter, "Revised Ordinances"), the Board finds that there is good cause, based in part on other mitigation and community benefits offered by the Applicant, to waive 75% of the infiltration/inflow calculation for the Project. Therefore, the infiltration/inflow fee shall be \$901,051.00.
14. The Board heard from City staff, boards, commissions, departments, and residents and has taken that testimony into account. The Board finds that the Project, as conditioned below, is Consistent with Local Needs, as that term is defined in 760 CMR 56.02, as required by the Act.
15. The Board finds that the conditions imposed in this decision are necessary in order to address Local Concerns, as that term is defined in 760 CMR 56.02. At no time during the public hearing did the Applicant indicate that any condition may render the Project uneconomic, and therefore the Board finds that the conditions will not render the Project uneconomic. To the extent that such conditions may render the Project uneconomic, the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
16. The offsite improvements which consist of constructing a shared use path and associated improvements along the southern side of Charlemont Street and a rapid rectangular flashing beacon signal ("RRFB") at Christina Street serve as a significant public benefit and will enhance pedestrian safety around the site, and provide critical pedestrian and cycling connectivity.

## **DECISION**

Pursuant to the Act, after convening a public hearing and making findings of fact, the Board grants a Comprehensive Permit to the Applicant for the Project, encompassing the enumerated waivers set forth herein and subject to the following conditions of approval set forth below.

## **CONDITIONS**

### **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. Copies of all state and federal permits and approvals related to the Site or the Project shall be submitted to the City's Department of Planning and Development as well as the Law Department for review to ensure consistency and compliance with this Decision.
6. 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.
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.

### HOUSING CONDITIONS

9. The Project shall include 370 units of rental housing, as listed in the following table:

<b>Unit Type</b>	<b>Total Number of Units</b>	<b>Number of Affordable Units</b>
<b>Studio</b>	33	8
<b>One Bedroom</b>	124	31
<b>Two Bedroom</b>	176	44
<b>Three Bedroom</b>	37	10

10. Twenty five percent (25%) of the units in the Project, which is 93 units, shall be affordable housing units, as follows (“the Affordable Units”):
  - a. Seventy-four (74) 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. Nineteen (19) 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 93 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 and each residential building shall have



approximately 25% Affordable Units. 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 DHCD's Guidelines for G.L. c. 40B Comprehensive Permit Projects. The Applicant shall provide evidence of 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 #1 and Condition #9.
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 #11 and #12; 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.

#### **MITIGATION & OFFSITE IMPROVEMENT CONDITIONS**

18. The Applicant shall make payments in the aggregate amount of \$901,051 to the City for infrastructure improvements for inflow and infiltration (I&I). Payments shall be made as follows:
  - a. \$450,525.50 prior to the issuance of the first building permit for the vertical construction of the Project; and,
  - b. \$450,525.50 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 \$1,503,153 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. \$751,576.50 prior to the issuance of the first building permit for the vertical construction of the Project; and,
- b. \$751,576.50 prior to the issuance of the first unit occupancy permit (temporary or final) in the Project.

Funds from the account in which these payments will be held shall be appropriated only with the approval of the City Council and the Mayor in accordance with municipal finance law. The Director of Planning and Development, after consultation with the Commissioner of Public Works, shall recommend improvements for funding to the City Council.

20. Prior to the issuance of the first building permit for the vertical construction of the Project, the Applicant shall submit plans for the reconstruction and improvement of the south side of Charlemont Street, including a roundabout, shared use path along the south side of Charlemont Street, and sidewalk along the south side of Charlemont Street as shown and consistent with the conceptual plans referenced in Schedule A for review and approval jointly by the Director of Planning and the Commissioner of Public Works. Before submission of such plans, the Applicant shall periodically meet with City officials during the design phase to solicit input and feedback on the design, including but not limited to evaluating the need for the roundabout as proposed. Prior to the issuance of a certificate of occupancy (temporary or final) for the 278<sup>th</sup> dwelling unit, the Applicant, at its sole costs and expense, shall complete this work in accordance with the approved plans. The Commissioner of Public Works shall inspect and approve the work upon completion.
21. Prior to the issuance of the first building permit for vertical construction of the Project, the Applicant shall, at its sole cost and expense, submit a design for a crosswalk across Christina Street, in general alignment with the abandoned rail bridge across the Charles River to the south, equipped with a pedestrian hybrid beacon (a.k.a. rapid rectangular flashing beacon ("RRFB")) to the Commissioner of Public Works and the Director of Planning and Development for review and approval. The design shall include curb extensions on the north and south side of Christina Street if required by DPW. 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 certificate of occupancy (temporary or final) for the 278<sup>th</sup> dwelling unit.

### **CONSTRUCTION CONDITIONS**

22. 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.
23. 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.

24. 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.

25. 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 Sec. 5-23(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.
26. 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.
27. 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.
28. 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.
29. All sidewalks located within the Site shall be designed as shown on the Approved Plans and shall be open to the public. All internal roadways shall be designed as shown on the Approved Plans.
30. 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.
31. 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.
32. 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.

33. 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.
34. 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.
35. 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 Commissioner of Public Works and the Department of Planning and Development for review and approval.
36. 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.

### **SUSTAINABILITY CONDITIONS**

37. 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.
38. Unless determined infeasible by the Applicant’s Passive House consultant, the Project’s roof areas shall include the installation of some combination of solar energy equipment, “green roof” and/or “reflective roof” areas, taking into account the extent of area needed for mechanical equipment and other required infrastructure.
39. 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.
40. Twenty percent (20%) of all parking stalls shall be equipped with electric vehicle charging stations.
41. 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.

### **TRAFFIC/PARKING CONDITIONS**

- 42. The Project shall include 456 parking stalls.
- 43. Of the eleven (11) visitor parking stalls, at least one (1) shall be ADA accessible.
- 44. 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.
- 45. One (1) parking stall shall be available for each Affordable Unit without charge to the tenant of such unit.
- 46. The Applicant shall provide storage for at least 200 bicycles within the building or garage as shown in the approved plans. Outdoor storage for twenty-four (24) additional bicycles will be provided on the Site as shown on the approved plans. These plans are referenced in Schedule A.
- 47. 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 \$100,000 to an alternative transit reimbursement fund. This fund will be used to provide reimbursements for MBTA transit passes 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 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.
48. The Applicant will implement and maintain the Transportation Demand Management Plan contained in Condition #47 and shall collaborate with the City on traffic management issues.
49. The Applicant shall coordinate with the Northland Needham Street Development (“NND”) to ensure that the shuttle which is contemplated for NND makes a stop on Charlemont Street adjacent to the site at least every third trip. Regardless, Applicant shall construct the site in accordance with the plans referenced in Schedule A which shows a roundabout at the end of Charlemont Street as well as the stop for the shuttle.

#### **OTHER/ONGOING CONDITIONS**

50. 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.
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 any and all portions of the “shared use path” facilities to be constructed on the south side of Charlemont Street and the “roundabout” to be constructed located at the eastern end of Charlemont Street in part on property not included in the Project Site, clear of snow to ensure safe and reliable access to and from all buildings at all times. 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 open space shown in Schedule A shall remain open to the public but may be closed by the Applicant at periodic and reasonable times for events.
54. The Applicant shall be responsible in perpetuity for the maintenance of the following: (a) the “shared use path” facilities to be constructed by and at the Applicant’s sole expense along the south side of Charlemont Street; (b) the publicly accessible open space on the



project site; and (c) the stair and bicycle runnel that will connect the project site with the neighborhood to the east.

55. The Applicant shall be responsible in perpetuity for the maintenance of the “roundabout” to be constructed at the eastern end of Charlemont Street in part on property not included in the Project Site.

**CONDITIONS PRECEDENT TO THE ISSUANCE OF BUILDING PERMITS**

56. No foundation building permit shall be issued pursuant to this Comprehensive Permit until the Applicant has:

- a. Recorded a certified copy of this Decision at the Middlesex County (South) Registry of Deeds and filed proof of such recording with the City Clerk, the Clerk of the Zoning Board of Appeals, and the Department of Planning and Development.
- b. Submitted a site plan showing the layout of the building(s) and extent of the foundation.
- c. Obtained a written statement from the Director of Planning and Development that confirms that the site and building permit plans are consistent with the Approved Plans.
- d. Submitted a municipal lien certificate showing all assessments and betterments have been paid in full and that there are no outstanding municipal liens on the Site in accordance with Condition #6.
- e. Submitted a final Construction Management Plan (CMP) for review and approval by the Commissioner of Inspectional Services in consultation with the Director of Planning and Development, the Chief of the Fire Department, the Commissioner of Public Works, and the City Engineer in accordance with Condition #26.
- f. Submitted to the Chief of the Fire Department for review and approval final site circulation plans and building plans which shall include all required information on proposed sprinkler and alarm systems, access to buildings, and all hydrants and fire connections.
- g. Submitted engineering, utility and drainage plans and an O&M Plan for review and approval by the City Engineer in accordance with Condition #33.
- h. Submitted to the Director of Planning and Development copies of the embodied carbon analysis in accordance with Condition #39.

57. No building permit for vertical construction shall be issued pursuant to this Comprehensive Permit until the Applicant has:

- a. Submitted a foundation as built plan, final site and building plans for the specific building(s) subject to such building permit which shall include all required information for building code review and approval and consistency with the Approved Plans in accordance with Condition #2.
- b. Obtained a written statement from the Director of Planning and Development that confirms that the final site and building permit plans are consistent with the Approved Plans.
- c. Submitted evidence of Final Project Approval by the subsidizing agency.
- d. Submitted evidence of the subsidizing agency's approval of the Affirmative Fair Housing Marketing and Resident Selection plan.
- e. Provided a fully executed Regulatory Agreement and proof of recording with the City Clerk, the Clerk of the Zoning Board of Appeals, and the Department of Planning and Development.
- f. Submitted the portion of the I&I payment required in accordance with Conditions #18 and 19.
- g. Submitted plans to the appropriate City Departments for review and approval regarding the off-site improvements in accordance with Conditions #20 and 21.
- h. Submitted a final photometric plan for review and approval by the Director of Planning and Development in accordance with Condition #35.
- i. Submitted to the Director of Planning and Development information evidencing design compliance with Passive House certification standards in accordance with Condition #37.
- j. Submitted a Transportation Demand Management Plan for review and approval by the Director of Planning and Development in accordance with Condition #47.

**CONDITIONS PRECEDENT TO THE ISSUANCE OF OCCUPANCY PERMITS**

58. No temporary occupancy permit shall be issued pursuant to this Comprehensive Permit until the Applicant has:
- a. Filed with the Board's Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect, professional land surveyor, and registered landscape architect certifying compliance with Condition #1 for the portion of the project for which a temporary occupancy permit is requested.

- b. Submitted to the Department of Inspectional Services, the Department of Planning and Development, and the Engineering Division final as-built survey plans in digital format for the portion of the project for which a temporary occupancy permit is requested.
  - c. Received a statement from the City Engineer certifying that all engineering details have been constructed to standards of the Department of Public Works for the portion for the portion of the project for which a temporary occupancy permit is requested.
  - d. Completed all landscaping in compliance with Condition #1 related to or for the portion of the project for which an occupancy permit is requested.
  - e. Filed with the Department of Inspectional Services a statement by the Director of Planning and Development approving final location, number and type of plant materials, landscape features, fencing, and parking areas related to or for the portion of the Project for which an occupancy permit is requested.
  - f. Filed with the Department of Inspectional Services and the Department of Planning and Development a letter of compliance prepared by a professional engineer certifying that all sidewalks and handicapped ramps are ADA compliant.
  - g. Submitted to the Director of Planning and Development evidence of completion of off-site improvements in accordance with Conditions #20 and 21, which requires the off-site improvements to be complete prior to the issuance of the 287<sup>th</sup> dwelling unit's certificate of occupancy.
59. No final certificate of occupancy for the final dwelling unit in the Project shall be issued until the Applicant has:
- a. Filed with the Board's Clerk, the Department of Inspectional Services and the Department of Planning and Development a statement by a registered architect, professional land surveyor, and registered landscape architect certifying compliance with Condition #1 for the portion of the project for which a temporary occupancy permit is requested.
  - b. Received a statement from the City Engineer certifying that all engineering details have been constructed to standards of the Department of Public Works.
  - c. Submitted any payments required under Conditions #18 and 19.
  - d. Filed with the Department of Inspectional Services and the Department of Planning and Development evidence that the undergrounding of utilities has been completed in accordance with Condition #31.

- e. Submitted to the Director of Planning and Development information evidencing that the project has been constructed in compliance with Passive House certification standards in accordance with Condition #37
60. Provided that all other requirements in Condition #59 are satisfied and the project is substantially complete, the Commissioner of Inspectional Services may in their discretion issue one or more certificates of temporary occupancy for all or portions of the building prior to completion of final landscaping (including hardscape improvements).

### WAIVERS GRANTED

1. The Board grants waivers from the following sections of the Zoning Ordinance:
  - a. Section 4.2.2.B.1 to permit a development of over 20,000 square feet.
  - b. Section 4.2.2.B.3 to allow a seven-story building.
  - c. Section 4.4.1 to allow residential use at the ground floor.
  - d. Section 4.4.1 to allow a multi-level accessory parking facility,
  - e. Section 5.4.2. to allow a retaining wall of greater than 4 feet within a setback for the wall on the southern portion of West Service Drive
  - f. Section 5.11 to waive all inclusionary zoning requirements.
2. The Board grants waivers from the following dimensional requirements of Section 4.2.2 and 4.2.3 of the Zoning Ordinance:
  - a. Lot Area Per Unit – allowing 822 square feet per unit (based on 370 units) where 1,000 square feet per unit is the minimum required.
  - b. Front Setback – allowing 11.3 foot front setback where 91.7 feet is the minimum required (based on building height in accordance with § 4.2.3).
  - c. Floor Area Ratio (FAR) – allowing a floor area ratio of 1.75 (§4.2.3).
  - d. Stories - allowing 7 stories where 4 is the maximum allowed by special permit. (§ 4.2.2.B.3 and 4.2.3).
  - e. Building Height – allowing 89.3 foot building height along Christina Street and 91.7 foot building height along Charlemont Street (calculated in accordance with §1.5.4) where 48 feet is the maximum allowed (§4.2.3).

3. The Board grants waivers from the following parking requirements of Section 5.1 of the Zoning Ordinance:

- a. Section 5.1.3.E to allow the assignment of parking spaces to tenants.
- b. Section 5.1.4.A to allow reduced parking requirement of 1.23 stall per unit for multi-family dwellings.
- c. Section 5.1.5 to waive the application and permit for parking and loading facility.
- d. Section 5.1.8.A.2 to allow parking stalls to be located within 5 feet from any building containing dwelling units.
- e. Section 5.1.8.B.1 to allow parking stalls with a width of less than nine feet.
- f. Section 5.1.8.B.2 and 5.1.8.B.4 to allow parking stalls (including accessible parking stalls) with a depth of less than nineteen feet.
- g. Section 5.1.8.B.6 to waive the required maneuvering space for end aisles.
- h. Section 5.1.8.B.7 to waive the requirement of an off-street parking or loading plan for noncommercial vans, buses, or other vehicles exceeding 7 ½ feet by 18 feet.
- i. Section 5.1.8.C.1-2 to waive the minimum maneuvering aisle dimensions to less than 24 feet wide (at the location of the garage doors).
- j. Section 5.1.10.A.1 to waive the 1-foot candle lighting requirement for outdoor parking.
- k. Section 5.1.12.B to waive the requirement to submit a plan for off-street loading facilities.
- l. Section 5.1.12.C to waive the requirement of an off-street loading facility.
- m. Section 5.1.12.D to waive the design requirements for off-street loading facilities.
- n. Section 5.2.4 to allow a freestanding sign, consistent with the approved plans.

4. The Board grants a waiver from the following sections of the Revised Ordinances:

- a. Section 29-169 to waive 75% of the Applicant's infiltration/inflow mitigation fee, resulting in a required payment of \$901,051.
- b. Section 22 to waive review by the Newton Historical Commission and the possible imposition of a demolition delay of historically significant buildings.

The Board does not approve any waivers that are not listed in this Decision.

**RECORD OF VOTE**

*AYES:* Michael Rossi (Chair)  
Brooke K. Lipsitt, (Vice Chair)  
William McLaughlin  
Stuart Snyder  
Elizabeth Sweet

*NAYS:* None

  
\_\_\_\_\_  
Michael Rossi, Chair

Wherefore, a Comprehensive Permit, consistent with the conditions of this Decision, is granted to the Applicant.

Filed with the City Clerk on \_\_\_\_\_, 2023

The City Clerk certifies that all statutory requirements have been complied with and that 20 days have lapsed since the date of filing of this decision and no appeal pursuant to G.L. c. 40B, § 22 has been filed.

\_\_\_\_\_  
City Clerk

## SCHEDULE A

### PROJECT MASTER PLANS

1. A set of plans entitled "Site Plans- The Northland Charlemont Development," prepared by VHB, dated September 15, 2022 revised through June 29, 2023, signed and stamped by Curtis R. Quitzau, Registered Professional Engineer, containing the following sheets:

<u>No.</u>	<u>Drawing Title</u>	<u>Latest Issue</u>
C-1.0	Legend and General Notes	June 29, 2023
C-2.0	Soil Erosion & Sediment Control Plan	June 29, 2023
C-2.1	This isn't labeled	June 29, 2023
C-3.0	Layout and Materials Plan	August 2, 2023
C-3.1	Grade Plane Calculation Plan	June 29, 2023
C-4.0	Grading and Drainage Plan	June 29, 2023
C-5.0	Utility Plan	June 29, 2023
C-6.0	Site Details	June 29, 2023

2. A set of architectural plans entitled "Charlemont 40B" prepared by Stantec, dated June 22, 2023, signed and stamped by James Gray, Registered Architect, containing the following sheets:

AZ-100	Below Grade Parking – P2
AZ-101	Ground Level - Christina
AZ-102	Level 1
AZ-103	Level 2
AZ-104	Level 3
AZ-105	Level 4
AZ-106	Level 5
AZ-107	Level 6
AZ-108	Level 7
AZ-109	Roof Plan
AZ-201	Elevations, showing North, South, East and West elevations

3. A set of landscape related plans titled "Northland Charlemont Development," prepared by Stantec, signed and stamped by Chris Bridle, Registered Landscape Architect, dated June 22, 2023.

L-000	Planting and Materials notes
L-100	Materials Plan
L-300	Planting Plan
L-310	Tree Removal Plan

4. A conceptual plan showing improvements to the southern side of Charlemont Street, showing a shared use path, furnishing zone, roundabout, and bus shelter; prepared by Northland, dated October 19, 2023.