

*City of Waltham*  
CITY OF WALTHAM  
CITY CLERK'S OFFICE  
*Jeannette A. McCarthy*  
Mayor

2017 SEP -7 A 8: 36

RECORDED

September 7, 2017

TO: The City Council  
RE: Weston Quarry Residences  
Weston, MA

Dear Councillors:

Enclosed please find:

1. August 21, 2017  
Communication from MassHousing to Boston Properties
2. March 24, 2017  
Communication from MassHousing to Boston Properties
3. August 7, 2017  
My response to MassHousing

Sincerely,

Jeannette A. McCarthy

JAM/ccb

Enclosures

cc: City Solicitor John Cervone  
First Assistant City Solicitor Patricia Azadi  
Waltham ZBA



Massachusetts Housing Finance Agency  
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1091  
VP: 866.758.1435 | [www.masshousing.com](http://www.masshousing.com)

RECEIVED

AUG 23 2017

MAYOR'S OFFICE

August 21, 2017

Michael A. Cantalupa  
BP Weston Quarry Residential, LLC  
c/o Boston Properties  
800 Boylston Street, Suite 1900  
Boston, MA 02199

**RE: Weston Quarry Residences—Weston, MA  
MH ID No. 914  
Supplemental Project Eligibility/Site Approval**

Dear Mr. Cantalupa:

This letter is in response to the supplemental application submitted by BP Weston Quarry Residential, LLC as “Applicant” for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B (“Chapter 40B”), 760 CMR 56.00 (the “Regulations”) and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development (“DHCD”) (the “Guidelines” and, collectively with Chapter 40B and the Regulations, the “Comprehensive Permit Rules”), under the MassHousing’s Mixed-Income Rental Program.

BP Weston Quarry Residential, LLC has submitted supplementary information related to the original Comprehensive Permit Site Approval/Rental application filed in December, 2016. The revised application, filed in June, 2017 proposes a new access route at Jones Road in the City of Waltham. The proposed route would provide access and egress to and from the site. The application proposes 345 units of rental housing (the “Project”) on a 15.1 acre property located at 133 Boston Post Road via entry at Jones Road (the “Site”) in Weston, MA and Waltham, MA (the “Municipalities”).

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility (“Site Approval”) by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, “Housing Programs In Which Funding Is Provided By Other Than A State Agency.”

MassHousing has performed an additional on-site inspection of the Site, which local boards and officials from the Municipalities were invited to attend, and has reviewed the pertinent information submitted by the Applicant, the Municipalities and others in accordance with the Comprehensive Permit Rules.

## **Municipal Review and Comments**

The Municipalities were given a 30-day period in which to review the Site Approval application and submit comments and recommendations to MassHousing. The Town of Weston's Board of Selectmen submitted a letter, received by MassHousing on July 18, 2017, generally in support of the Project revisions. The Municipality continues to support the Site as a priority site for development in its Housing Production Plan, however it opposes the previously proposed Church Street access route, identifying the following concerns:

- The Town of Weston is concerned that the existing infrastructure of the previously proposed Church Street access is insufficient to accommodate the increased traffic that will be produced by the Project.
- The Town of Weston is concerned that the previously proposed Church Street access will have detrimental environmental impact on the future rail trail, which will be used by residents of both Weston and Waltham.

To continue this project in partnership with the Town of Weston, the applicant has agreed to pursue approval of the revised Jones Road access route. Mayor Jeannette A. McCarthy of the City of Waltham submitted a letter, received by MassHousing on August 7<sup>th</sup>, 2016 opposing this change and identifying the following concerns:

- The City of Waltham is concerned that the proposed project will increase traffic on route 117, which is already congested with local and commuter traffic.
- The City of Waltham is concerned that the proposed project will have infringing impacts on the City's public services, including water and sewer and emergency management.

## **Community Comments**

In addition to comments from town officials, MassHousing received one (1) letter from neighboring property owners at 1265 Main Street in Waltham, the site of the City's former Polaroid campus, which is currently under redevelopment. The letter expressed support for the Project, identifying the following benefits:

- The proposed project's access improvements could help to unlock critical infrastructure, including a potential MBTA multi-modal station, a potential connection from Jones Road to the proposed "Green Street Connector" (which would connect Route 117 with the Route 20 interchange), and associated extensive new pedestrian/bike infrastructure.
- The proposed project will benefit the neighborhood by providing much-needed affordable units in an area that offers extensive office space, but suffers from lack of housing opportunities for corporate employees.

## MassHousing Determination

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval. As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail in Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Developer may apply to the Zoning Board of Appeals of the Municipalities for a comprehensive permit. At that time, local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with applicable state and local standards and regulations.

Based on MassHousing's review of the Project's revised application, and considering feedback received from the Municipalities and abutters, the following issues related to the proposed Jones Road access route should be addressed in your application to the Weston and Waltham Zoning Board of Appeals. You should be prepared to explore them more fully in the public hearing process:

- The Applicant should be prepared to provide sufficient data to assess potential traffic impacts on area roadways and intersections, particularly around Route 117 and Jones Road, including the safety of proposed site access and egress, and to respond to reasonable requests for mitigation.
- The Applicant should be prepared to verify that the site plan is fully compliant with public safety standards relative to emergency access and emergency response.
- The Applicant should be prepared to provide information relative to the development of site amenities and landscaping plans, particularly as they relate to construction of the proposed automobile bridge, MBTA multi-modal station, and associated pedestrian/bike infrastructure.

All recommendations raised in the initial Project Eligibility determination dated March 24, 2017 still apply. A copy is attached for your reference.

This Site Approval is expressly limited to the development of no more than 345 rental units under the terms of the Program, of which not less than 87 of such units shall be restricted as affordable for low or moderate income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a comprehensive permit, the use of any other housing subsidy program, the construction of additional units, a reduction in the size of the Site, a change in tenure type or a substantial change to the overall Site Plan, you may be required to submit a new site approval application for review by MassHousing.

For guidance on the comprehensive permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

This approval will be effective for a period of two years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing of the following: (1) the Applicant applies to the local ZBA for a Comprehensive Permit, (2) the ZBA issues a decision and (3) any appeals are filed.

Should a comprehensive permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.

Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBB, for which MassHousing serves as Subsidizing Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

If you have any questions concerning this letter, please contact Kat Miller at (617) 854-1116.

Sincerely,



Gregory P. Watson  
Manager of Comprehensive Permit Programs

cc: Imaikalani Aiu, Weston Town Planner  
Donna S. Vanderclock, Weston Town Manager  
Noreen Stockman, Weston Zoning Board of Appeals Staff Assistant  
Jeannette A. McCarthy, Mayor, City of Waltham  
Pamela Doucette, City of Waltham, Office of Zoning Board of Appeals

## Attachment 1

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency  
Section (4) Findings and Determinations

### Weston Quarry Residences MH ID No. 914

After the close of the review period and extension, MassHousing hereby makes the following findings, based upon its review of the application, and considering information received during the site visit and from written comments:

***(a) that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);***

The Project is eligible under the NEF housing subsidy program and MassHousing's mixed income permanent financing program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income, adjusted for household size, as published by the U.S. Department of Housing and Urban Development ("HUD"). The most recent HUD income limits indicate that 80% of the current median income for a four-person household in Weston is \$73,050.

Proposed gross rent levels for the affordable units, less utility allowances (as discussed in section (d) below) accurately reflect current affordable rent levels for the Boston-Cambridge-Quincy HMFA under the Program.

A letter of financial interest was provided by MassHousing's Business Development Group.

***(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);***

Based on a site inspection by MassHousing staff, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses, and would directly address the local need for affordable housing. The location will attract interest given its proximity to area commuter routes, employment and services.

The Town of Weston submitted a Housing Production Plan on June 28, 2016, which has not been certified. Per DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through January, 2017, Weston has 142 SHI units out of a total of 3,952 housing units (3.6% of its housing inventory). An additional 254 units would be required for the Town to achieve the 10% threshold of 395.

The need for additional affordable housing is further supported by U.S. Census data from the 2011-2015 American Community Survey, which indicates that 10.5% households in the Town of Weston earn less than 30% of the 2016 AMI (\$98,100), approximately 14.5% earn less than 50% of the 2016 AMI, and 16.9% earned less than 60% of the AMI and 20.4% of households earned less than 80% of the 2016 AMI.

*(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);*

**Relationship to Adjacent Building Typology (including building massing, site arrangement, and architectural details)**

The proposed Project consists of 345 residential rental units in two, six-story buildings that include one level of covered parking at grade. The height of the proposed buildings has been stepped-down at the Site entry point, with the higher portions set back within the development, reducing the impact of the buildings' scale and introducing the mass in a gradual manner. The western building would sit atop a small hill overlooking the Duck Pond to the west. The proposed development preserves much of the existing vegetation and wooded area on the hill, and will not impinge on the 125' Conservation Restriction setback in this area. The architectural approach to the proposed buildings draws from the site's industrial past as a quarry with reference to traditional materials and detailing. Although not finalized, the exterior will likely include traditional wood-style panels, metal panels, and fiber cement panels and siding. Opportunities to provide stone or stone veneer accents at the base of the buildings will also be explored. Trim boards of various sizes, color variation, and exposure will be used to break up the façade.

**Relationship to adjacent streets/Integration into existing development patterns**

The Site for the proposed residential development is approximately 15.1 acres and is located adjacent to the Weston Corporate Center, an existing commercial office site occupied by Biogen and Monster.com. The balance of the neighborhood is wooded land with some open fields. The nearest single-family homes are 600 to 1,000 feet away. Proximity to Route 20, Route 117, and Interstate 95, and the Fitchburg commuter rail line provides excellent accessibility for commuters to Boston and other commercial areas. Access to the proposed development would leave the north of the sites and head eastward, connecting with Jones Road in Waltham. The access route would follow the path created by an adjacent and currently unused MBTA Right of Way (ROW) and would require construction of a new automobile bridge crossing at the Fitchburg commuter rail line.

**Density**

The Developer intends to build 345 rental apartments in two buildings on a 15.1-acre site (13.34 buildable acres). The resulting density is approximately 25.86 units per buildable acre, which is generally acceptable for multi-family development in this region and is appropriate given the immediate connection to jobs and regional transportation networks.

### **Environmental Resources**

The immediate surrounding area is predominantly vegetative with a quarry pond to the south and wooded areas to the north and east of the site. The Site is impacted by a conservation restriction along the southwesterly lot line which includes an area of .96 acres where a nature trail walking path is located. Additionally, approximately 0.49 acre of the Site is located in a flood hazard zone AE and approximately 0.31 acre of the Site is defined as wetlands by the Massachusetts Department of Environmental Protection (DEP). These resources will not be an impediment to the proposed development.

### **Topography**

The Site has topography that has two distinct elevations with level areas necessary to support the two proposed residential buildings. The northeast portion of the Site is currently a gently rolling field that is covered with mowed grass where one of the proposed residential buildings is to be located. The Site transitions to rising topography in the southwest portion of the Site. No significant adverse conditions are present and the Site's topography is not a significant factor to the proposed development.

### **Conceptual Site Plan**

The conceptual site plan shows the two buildings placed on partially below grade parking podiums on the level portions of the site, with a series of curving roadways providing access to the underground and surface parking. The proposed building design is straightforward with double loaded corridor buildings, shaped as bent "L"s. The shape of the buildings creates south facing courtyards on the podiums. The proposed location and orientation of the proposed buildings are intended to preserve and utilize as much of the natural setting as possible. This approach should help establish an internal, communal feeling to the proposed development and limit sight lines from adjacent properties. Access to the proposed development would connect with Jones Road in Waltham. The access route would follow the path created by an adjacent and currently unused MBTA Right of Way (ROW) and would require construction of a new automobile bridge crossing at the Fitchburg commuter rail line. As a part of the proposed access route design, the Applicant has included plans for a rail trail along the developed length of the access drive. The proposed trail would provide an extension to the existing Wayside Rail Trail, unlocking critical bike and pedestrian infrastructure around the site. The existing WWTP building and associated underground tanks are proposed to be relocated just off the southern boundary and accessed from the residential portion of the site.

*(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);*

The Applicant proposes the construction of 345 apartments to be financed under MassHousing's Mixed-Income Rental Program. There will be 258 market-rate units with proposed average rent levels of \$2,115 for studios, \$2,550 for one-bedroom units, \$3,260 for the two-bedroom units, \$4,150 for the three-bedroom units. Per MassHousing's Appraisal and Marketing Division (A&M), the proposed market rents for the studio, one, two, and three-bedroom apartments are within the range of adjusted comparable market rents.

A&M's review indicates that between 2010 and 2015 the inventory of rental housing in the West/North West Suburban Submarket expanded by 1.3% per year on average. As the area's supply of rental units continues to grow, REIS, Inc. data indicates that the submarket's vacancy



rate will grow as well, increasing from 5.6% to 7.9%. However, this increase in supply (and vacancy level) does not appear to have slowed growth in the effective rents, as they have increased from \$1,505 in 2010 to \$1763 (17%) in 2015, and are projected to continue to rise, albeit more modestly, to \$1,897 (7.6%) by 2019. In general, occupancy levels in the area have remained stable, with an average occupancy rate of 3.78%.

A&M notes public transportation is limited in the area (although there are two commuter rail stations within 2 miles); therefore, most of the competitive rentals are near the regions primary highways including Routes 90, 9, 20, 117, 95, 60, 3, 3A and 2. These locations are more accessible to the area's wide mix of commercial/retail establishments and employment centers. There are plans to build a new commuter rail station in the vicinity, although no time table has been set by the MBTA. A more in depth market study should be conducted prior to financing and Final Approval.

***(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) based on estimated development costs;***

MassHousing has commissioned an as "As-Is" appraisal which indicates a land valuation of \$930,000. The Project pro forma includes a proposed investment of \$112,831,607 in private equity. A preliminary review of the pro forma indicates that the per-unit construction costs are within the normal range for similar multi-family developments. Based on estimated development costs, the Project appears to be financially feasible and within the limitations on profits and distributions.

***(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and***

The Applicant must be organized as a Limited Dividend Organization. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program and MassHousing's Mixed-Income Rental Program and has agreed to restrict their profits in accordance with the applicable limited dividend provisions.

***(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.***

The related entity to the Applicant (BP Weston Quarry, LLC) controls the entire Site through a Deed from Massachusetts Broken Stone Company to BP Weston Quarry, LLC dated December 20, 2001 and registered at Middlesex County South Registry of Deeds in Book 34371; Page 131.<sup>1</sup>

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<sup>1</sup> The Site is part of an overall larger 73.977-acre site. The portion of the overall site that is the subject of this determination of Project Eligibility has not been legally subdivided into a separate lot as of this date. A copy of the Letter of Intent (LOI), dated October 21, 2016, issued by Biogen (current tenant), outlines business terms to be included in an amendment to the existing master lease to release the proposed portion of the Site from the master leased property at 133 Boston Post Road for the proposed residential development.

A letter from the MBTA dated December 16<sup>th</sup>, 2016 details an access agreement to the site, allowing for site access through the currently unused MBTA Right of Way (ROW) that borders the northern part of the proposed property.



COPY

Massachusetts Housing Finance Agency  
One Beacon Street, Boston, MA 02108

TEL: 617.854.1000 | FAX: 617.854.1091  
VP: 866.758.1435 | [www.masshousing.com](http://www.masshousing.com)

March 24, 2017

Michael A. Cantalupa  
BP Weston Quarry Residential, LLC  
c/o Boston Properties  
800 Boylston Street, Suite 1900  
Boston, MA 02199

**RE: Weston Quarry Residences—Weston, MA  
MH ID No. 914  
Project Eligibility/Site Approval**

Dear Mr. Cantalupa:

This letter is in response to an application by BP Weston Quarry Residential, LLC as “Applicant” for a determination of Project Eligibility (Site Approval) pursuant to Massachusetts General Laws Chapter 40B (“Chapter 40B”), 760 CMR 56.00 (the “Regulations”) and the Comprehensive Permit Guidelines issued by the Department of Housing and Community Development (“DHCD”) (the “Guidelines” and, collectively with Chapter 40B and the Regulations, the “Comprehensive Permit Rules”), under the MassHousing’s Mixed-Income Rental Program.

BP Weston Quarry Residential, LLC has submitted an application with MassHousing pursuant to Chapter 40B. You have proposed to build 345 units of rental housing (the “Project”) on a 15.1 acres property located at 133 Boston Post Road (the “Site”) in Weston, MA (the Municipality).

In accordance with the Comprehensive Permit Rules, this letter is intended to be a written determination of Project Eligibility (“Site Approval”) by MassHousing acting as Subsidizing Agency under the Guidelines, including Part V thereof, “Housing Programs In Which Funding Is Provided By Other Than A State Agency.”

MassHousing has performed an on-site inspection of the Site, which local boards and officials were invited to attend, and has reviewed the pertinent information submitted by the Applicant, the Municipality and others in accordance with the Comprehensive Permit Rules.

#### **Municipal Review and Comments**

The Municipality was given a 30-day period in which to review the Site Approval application and submit comments and recommendations to MassHousing. The Board of Selectmen submitted a letter, received by MassHousing on December 12, 2017, in support of the Project. In summary, the Municipality has identified the Site in its Housing Production Plan and approached

the Applicant to propose that the property be developed in this manner. On February 3, 2017, MassHousing received comments from the Municipality's Department of Public Works (DPW) and Conservation Commission (CC) generally supporting the Project, while identifying the following specific concerns:

- The DPW is concerned about the expected demands on the Town of Weston water distribution system, which could be up to an additional 45,000 gallons per day.
- The CC is concerned that the proposed work will have a significant adverse impact on the riverfront area.

### **MassHousing Determination**

MassHousing staff has determined that the Project appears generally eligible under the requirements of the Program, subject to final review of eligibility and to Final Approval. As a result of our review, we have made the findings as required pursuant to 760 CMR 56.04(1) and (4). Each such finding, with supporting reasoning, is set forth in further detail in Attachment 1 hereto. It is important to note that Comprehensive Permit Rules limit MassHousing to these specific findings to determine Project Eligibility. If, as here, MassHousing issues a determination of Project Eligibility, the Developer may apply to the Zoning Board of Appeals of the Municipality for a comprehensive permit. At that time, local boards, officials and members of the public are provided the opportunity to further review the Project to ensure compliance with applicable state and local standards and regulations.

Based on MassHousing's site and design review, and considering feedback received from the Municipality and abutters, the following issues should be addressed in your application to the Weston Zoning Board of Appeals, and you should be prepared to explore them more fully in the public hearing process:

- Development of this Site will require compliance with all state and federal environmental laws, regulations and standards applicable to existing conditions and to the proposed use relating to floodplain management, wetland protection, river and wildlife conservation, water quality, stormwater management, wastewater treatment, and hazardous waste safety. The Applicant should expect that the Municipality will require evidence of such compliance prior to the issuance of a building permit for the Project.
- The Applicant should be prepared to provide sufficient data to assess potential traffic impacts on area roadways and intersections, including the safety of proposed site access and egress, and to respond to reasonable requests for mitigation.
- The Applicant should be prepared to provide detailed information relative to proposed water usage, especially potential impacts on existing capacity.
- The Applicant should be prepared to verify that the site plan is fully compliant with public safety standards relative to emergency access and provisions for fire suppression.
- The Applicant should provide a plan of erosion and sedimentation control, to be reviewed by the Municipality to ensure that the project will not impair groundwater or surface water quality.

- The Applicant should provide a detailed stormwater management plan to be reviewed by the Municipality.
- The Applicant should be prepared to provide information relative to snow storage, mail delivery, trash pick-up and lighting.
- The Applicant should be prepared to provide information relative to the development of site amenities and landscaping plans, including plans for preservation of existing wooded areas.

This Site Approval is expressly limited to the development of no more than 345 rental units under the terms of the Program, of which not less than 87 of such units shall be restricted as affordable for low or moderate income persons or families as required under the terms of the Guidelines. It is not a commitment or guarantee of financing and does not constitute a site plan or building design approval. Should you consider, prior to obtaining a comprehensive permit, the use of any other housing subsidy program, the construction of additional units, a reduction in the size of the Site, a change in tenure type or a substantial change to the overall Site Plan, you may be required to submit a new site approval application for review by MassHousing.

For guidance on the comprehensive permit review process, you are advised to consult the Guidelines. Further, we urge you to review carefully with legal counsel the M.G.L. c.40B Comprehensive Permit Regulations at 760 CMR 56.00.

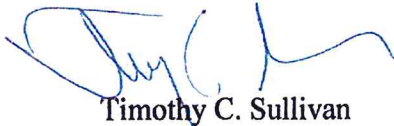
This approval will be effective for a period of two years from the date of this letter. Should the Applicant not apply for a comprehensive permit within this period this letter shall be expired and no longer in effect unless MassHousing extends the effective period of this letter in writing. In addition, the Applicant is required to notify MassHousing of the following: (1) the Applicant applies to the local ZBA for a Comprehensive Permit, (2) the ZBA issues a decision and (3) any appeals are filed.

Should a comprehensive permit be issued, please note that prior to (i) commencement of construction of the Project or (ii) issuance of a building permit, the Applicant is required to submit to MassHousing a request for Final Approval of the Project (as it may have been amended) in accordance with the Comprehensive Permit Rules (see especially 760 CMR 56.04(07) and the Guidelines including, without limitation, Part III thereof concerning Affirmative Fair Housing Marketing and Resident Selection). Final Approval will not be issued unless MassHousing is able to make the same findings at the time of issuing Final Approval as required at Site Approval.

Please note that MassHousing may not issue Final Approval if the Comprehensive Permit contains any conditions that are inconsistent with the regulatory requirements of the New England Fund Program of the FHLBB, for which MassHousing serves as Subsidizing Agency, as reflected in the applicable regulatory documents. In the interest of providing for an efficient review process and to avoid the potential lapse of certain appeal rights, the Applicant may wish to submit a "final draft" of the Comprehensive Permit to MassHousing for review. Applicants who avail themselves of this opportunity may avoid significant procedural delays that can result from the need to seek modification of the Comprehensive Permit after its initial issuance.

If you have any questions concerning this letter, please contact Jessica Malcolm at (617) 854-1201.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy C. Sullivan". The signature is fluid and cursive, with a large initial "T" and "S".

Timothy C. Sullivan  
Executive Director

cc: Chrystal Kornegay, Undersecretary, Department of Housing and Community  
Development  
Christopher E. Houston, Chair, Weston Board of Selectmen  
Winifred I. Li, Chair, Weston Zoning Board of Appeals

## Attachment 1

760 CMR 56.04 Project Eligibility: Other Responsibilities of Subsidizing Agency  
Section (4) Findings and Determinations

### Weston Quarry Residences MH ID No. 914

After the close of the review period and extension, MassHousing hereby makes the following findings, based upon its review of the application, and considering information received during the site visit and from written comments:

***(a) that the proposed Project appears generally eligible under the requirements of the housing subsidy program, subject to final approval under 760 CMR 56.04(7);***

The Project is eligible under the NEF housing subsidy program and MassHousing's mixed income permanent financing program and at least 25% of the units will be available to households earning at or below 80% of the Area Median Income, adjusted for household size, as published by the U.S. Department of Housing and Urban Development ("HUD"). The most recent HUD income limits indicate that 80% of the current median income for a four-person household in Weston is \$73,050.

Proposed gross rent levels for the affordable units, less utility allowances (as discussed in section (d) below) accurately reflect current affordable rent levels for the Boston-Cambridge-Quincy HMFA under the Program.

A letter of financial interest was provided by MassHousing's Business Development Group.

***(b) that the site of the proposed Project is generally appropriate for residential development, taking into consideration information provided by the Municipality or other parties regarding municipal actions previously taken to meet affordable housing needs, such as inclusionary zoning, multifamily districts adopted under c.40A, and overlay districts adopted under c.40R, (such finding, with supporting reasoning, to be set forth in reasonable detail);***

Based on a site inspection by MassHousing staff, internal discussions, and a thorough review of the application, MassHousing finds that the Site is suitable for residential use and development and that such use would be compatible with surrounding uses, and would directly address the local need for affordable housing. The location will attract interest given its proximity to area commuter routes, employment and services.

The Town of Weston submitted a Housing Production Plan on June 28, 2016, which has not been certified. Per DHCD's Chapter 40B Subsidized Housing Inventory (SHI), updated through January, 2017, Weston has 142 SHI units out of a total of 3,952 housing units (3.6% of its housing inventory). An additional 254 units would be required for the Town to achieve the 10% threshold of 395.

The need for additional affordable housing is further supported by U.S. Census data from the 2011-2015 American Community Survey, which indicates that 10.5% households in the Town of Weston earn less than 30% of the 2016 AMI (\$98,100), approximately 14.5% earn less than 50% of the 2016 AMI, and 16.9% earned less than 60% of the AMI and 20.4% of households earned less than 80% of the 2016 AMI.

*(c) that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail);*

**Relationship to Adjacent Building Typology (including building massing, site arrangement, and architectural details):**

The proposed Project consists of 345 residential rental units in two, six-story buildings that include one level of covered parking at grade. The height of the proposed buildings has been stepped-down at the Site entry point, with the higher portions set back within the development, reducing the impact of the buildings' scale and introducing the mass in a gradual manner. The western building would sit atop a small hill overlooking the Duck Pond to the west. The proposed development preserves much of the existing vegetation and wooded area on the hill, and will not impinge on the 125' Conservation Restriction setback in this area. The architectural approach to the proposed buildings draws from the site's industrial past as a quarry with reference to traditional materials and detailing. Although not finalized, the exterior will likely include traditional wood-style panels, metal panels, and fiber cement panels and siding. Opportunities to provide stone or stone veneer accents at the base of the buildings will also be explored. Trim boards of various sizes, color variation, and exposure will be used to break up the façade.

**Relationship to adjacent streets/Integration into existing development patterns**

The Site for the proposed residential development is approximately 15.1 acres and is located adjacent to the Weston Corporate Center, an existing commercial office site occupied by Biogen and Monster.com. The balance of the neighborhood is wooded land with some open fields. The nearest single-family homes are 600 to 1,000 feet away. Proximity to Route 20, Route 117, and Interstate 95, and the Fitchburg commuter rail line provides excellent accessibility for commuters to Boston and other commercial areas. Access to the proposed development would be achieved by the construction of a new road down the abandoned MassDOT rail bed right-of-way to the north of the Site, connecting the Site with Church Street to the west.

**Density**

The Developer intends to build 345 rental apartments in two buildings on a 15.1-acre site (13.34 buildable acres). The resulting density is approximately 25.86 units per buildable acre, which is generally acceptable for multi-family development in this region and is appropriate given the immediate connection to jobs and regional transportation networks.

**Environmental Resources**

The immediate surrounding area is predominantly vegetative with a quarry pond to the south and wooded areas to the north and east of the site. The Site is impacted by a conservation restriction along the southwesterly lot line which includes an area of .96 acres where a nature trail walking



path is located. Additionally, approximately 0.49 acre of the Site is located in a flood hazard zone AE and approximately 0.31 acre of the Site is defined as wetlands by the Massachusetts Department of Environmental Protection (DEP). These resources will not be an impediment to the proposed development.

### **Topography**

The Site has topography that has two distinct elevations with level areas necessary to support the two proposed residential buildings. The northeast portion of the Site is currently a gently rolling field that is covered with mowed grass where one of the proposed residential buildings is to be located. The Site transitions to rising topography in the southwest portion of the Site. No significant adverse conditions are present and the Site's topography is not a significant factor to the proposed development.

### **Conceptual Site Plan**

The conceptual site plan shows the two buildings placed on partially below grade parking podiums on the level portions of the site, with a series of curving roadways providing access to the underground and surface parking. The proposed building design is straightforward with double loaded corridor buildings, shaped as bent "L"s. The shape of the buildings creates south facing courtyards on the podiums. The proposed location and orientation of the proposed buildings are intended to preserve and utilize as much of the natural setting as possible. This approach should help establish an internal, communal feeling to the proposed development and limit sight lines from adjacent properties. The Project entry is centrally located with guest parking. Access to the proposed development would be achieved by the construction of a new road down the abandoned MassDOT rail bed right-of-way to the north of the Site, connecting the Site with Church Street to the west. The existing WWTP building and associated underground tanks are proposed to be relocated just off the southern boundary and accessed from the residential portion of the site.

#### ***(d) that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures);***

The Applicant proposes the construction of 345 apartments to be financed under MassHousing's Mixed-Income Rental Program. There will be 258 market-rate units with proposed average rent levels of \$2,115 for studios, \$2,550 for one-bedroom units, \$3,260 for the two-bedroom units, \$4,150 for the three-bedroom units. Per MassHousing's Appraisal and Marketing Division (A&M), the proposed market rents for the studio, one, two, and three-bedroom apartments are within the range of adjusted comparable market rents.

A&M's review indicates that between 2010 and 2015 the inventory of rental housing in the West/North West Suburban Submarket expanded by 1.3% per year on average. As the area's supply of rental units continues to grow, REIS, Inc. data indicates that the submarket's vacancy rate will grow as well, increasing from 5.6% to 7.9%. However, this increase in supply (and vacancy level) does not appear to have slowed growth in the effective rents, as they have increased from \$1,505 in 2010 to \$1763 (17%) in 2015, and are projected to continue to rise, albeit more modestly, to \$1,897 (7.6%) by 2019. In general, occupancy levels in the area have remained stable, with an average occupancy rate of 3.78%.

A&M notes public transportation is limited in the area (although there are two commuter rail stations within 2 miles); therefore, most of the competitive rentals are near the regions primary

highways including Routes 90, 9, 20, 117, 95, 60, 3, 3A and 2. These locations are more accessible to the area's wide mix of commercial/retail establishments and employment centers. There are plans to build a new commuter rail station in the vicinity, although no time table has been set by the MBTA. A more in depth market study should be conducted prior to financing and Final Approval.

***(e) that an initial pro forma has been reviewed, including a land valuation determination consistent with the Department's Guidelines, and the Project appears financially feasible and consistent with the Department's Guidelines for Cost Examination and Limitations on Profits and Distributions (if applicable) based on estimated development costs;***

MassHousing has commissioned an as "As-Is" appraisal which indicates a land valuation of \$930,000. The Project pro forma includes a proposed investment of \$112,831,607 in private equity. A preliminary review of the pro forma indicates that the per-unit construction costs are within the normal range for similar multi-family developments. Based on estimated development costs, the Project appears to be financially feasible and within the limitations on profits and distributions.

***(f) that the Applicant is a public agency, a non-profit organization, or a Limited Dividend Organization, and it meets the general eligibility standards of the housing program; and***

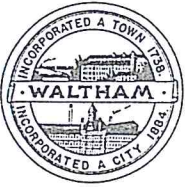
The Applicant must be organized as a Limited Dividend Organization. MassHousing sees no reason this requirement could not be met given information reviewed to date. The Applicant meets the general eligibility standards of the NEF housing subsidy program and MassHousing's Mixed-Income Rental Program and has agreed to restrict their profits in accordance with the applicable limited dividend provisions.

***(g) that the Applicant controls the site, based on evidence that the Applicant or a related entity owns the site, or holds an option or contract to acquire such interest in the site, or has such other interest in the site as is deemed by the Subsidizing Agency to be sufficient to control the site.***

The related entity to the Applicant (BP Weston Quarry, LLC) controls the entire Site through a Deed from Massachusetts Broken Stone Company to BP Weston Quarry, LLC dated December 20, 2001 and registered at Middlesex County South Registry of Deeds in Book 34371; Page 131.<sup>1</sup>

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<sup>1</sup> The Site is part of an overall larger 73.977-acre site. The portion of the overall site that is the subject of this determination of Project Eligibility has not been legally subdivided into a separate lot as of this date. A copy of the Letter of Intent (LOI), dated October 21, 2016, issued by Biogen (current tenant), outlines business terms to be included in an amendment to the existing master lease to release the proposed portion of the Site from the master leased property at 133 Boston Post Road for the proposed residential development.



# City of Waltham

*Jeannette A. McCarthy*  
*Mayor*

August 7, 2017

Gregory Watson, Manager of Comprehensive Permit Programs  
Mass Housing  
One Beacon Street  
Boston, MA 02108

RE: MA HID No. 914  
Weston Quarry Residences, Weston, Massachusetts

Dear Mr. Watson:

On July 7, 2017, a supplementary information package was provided to my office, which is the first filing that I received on this case. Up until this date, the project was confined in the Town of Weston. Now due to pressure from Weston residents, Church Street residents, as well as elected and appointed officials, Boston Properties and the Town of Weston are proposing that all access to and from this property be through Jones Road in Waltham, except for the Weston school busses. This proposal will require numerous waivers from the City of Waltham to do this.

To indicate that the Town of Weston and Boston Properties cannot utilize Route 20 or other Weston roads as access and egress for this 345-unit, primarily luxury housing development in Weston is illogical and without valid support.

On July 19, 2017, Waltham Housing Director Robert Waters and I attended a site view for the project at which time I was advised that a multi-modal center was proposed in the Town of Weston. We were also advised there are no actual plans to build a multi-modal center, as part of this project, but Boston Properties was just going to provide an easement for a multimodal center for someone who may build it in the future. I also learned that 2000 vehicles per day were anticipated to come out onto Jones Road from this Weston 40B project.

Michael Cantalupa, Sr. Vice President of Boston Properties signed an agreement with the City of Waltham concerning future development of Lots 1A, 17A and 17B. Said lots surround Jones Road on the left, right and below. (See Attached Exhibit A)

Before any traffic could access Jones Road over one or more or all of those three lots, approval of the Waltham City Council would be required under this private agreement between the City of Waltham and Boston Properties. (See Attached Exhibit B)

The current proposal to access Jones Road in Waltham for a Weston 40B is contrary to this Agreement between Boston Properties and the City of Waltham, and is also contrary to City of Waltham zoning.

I believe a timeline is helpful:

#### Timeline

133 Boston Post Road, Weston, MA project "is being proposed as the result of an over two-year ongoing discussion with the Town of Weston..." (Boston Properties, December 9, 2016 Letter to Mass Housing) (Project did not involve the City of Waltham during this time.)

#### Unknown Date

The Town of Weston approached the owner of 133 Boston Post Road, Weston (Site) to propose that the property be developed into affordable housing. (Weston Selectman letter to Mass Housing, December 8, 2016)

Boston Properties is an Office Park Developer and has never built a 40B (May 2016 40B application.)

Problem #1 – The Site has a Development Restriction dated June 4, 2008 and recorded December 18, 2008.

#### June 28, 2016

Town of Weston identifies Boston Properties "friendly 40B" - 200 units - as a location for affordable housing in year 2 (2017) of its 2016-2020 Housing Plan. (Not 345 units as now proposed)

#### November 17, 2016

Town of Weston and Boston Properties amend the Development Restrictions on Site to allow:

1(b) multiple buildings on lots 3-5 as shown on 1999 Definitive Plan may be used for the intermodal train station use...and for a multi-family rental residential uses... for no less than 275 rental units.

Lots 4 and 5 to be used only for the allowed train station and residential rental uses and no other purposes. An intermodal train station, including without limitation, a platform and parking garage may take place on the Development Parcel.

**First amendment not effective until/unless various conditions are met. (See attached Exhibit C, Page 4)**

December 9, 2016

Filed application was for 345 rental units. Eligibility Letter issued on March 24, 2017. The Eligibility Letter was geared for a Weston development, not Waltham.

Now after working on the proposal for two years, including a multi-modal center in Weston, Boston Properties and Weston transfer the burden to Waltham with a minute "infinitesimal" benefit to Waltham residents or the City of Waltham.

The developer will make millions with very little output. There will be no mitigation at all, no multimodal center, no Rte. 117 Bridge, no Green Street access to the project or the highway, which they touted in the project narrative.

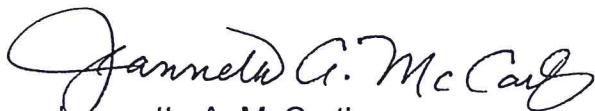
Weston satisfies its "40B problem" and the Citizens of Waltham take the brunt of this. The public gets mostly luxury housing, some affordable by definition, but in reality not affordable at all. Impact on the Waltham schools, who knows? Emergency services? Another multi-story wood-frame construction? Need? Water and sewer?

Traffic on 117 Weston is horrible now. The principles of "smart development" are not satisfied even under the state's liberal standard. 2000 more cars are proposed to be pushed onto Rte. 117 in Waltham, and there will still be no public transportation to eliminate single occupancy vehicles from already overburdened local roads in Waltham and Weston, nor from the state's gridlocked highway system.

I am opposed to dense luxury housing and more traffic, both of which lessen the quality of life of the Citizens of Waltham.

Thank you for the opportunity to comment. If you have any questions, please do not hesitate to call me.

Sincerely,



Jeannette A. McCarthy

JAM/ccb

Enclosures

cc: Jessica Malcolm

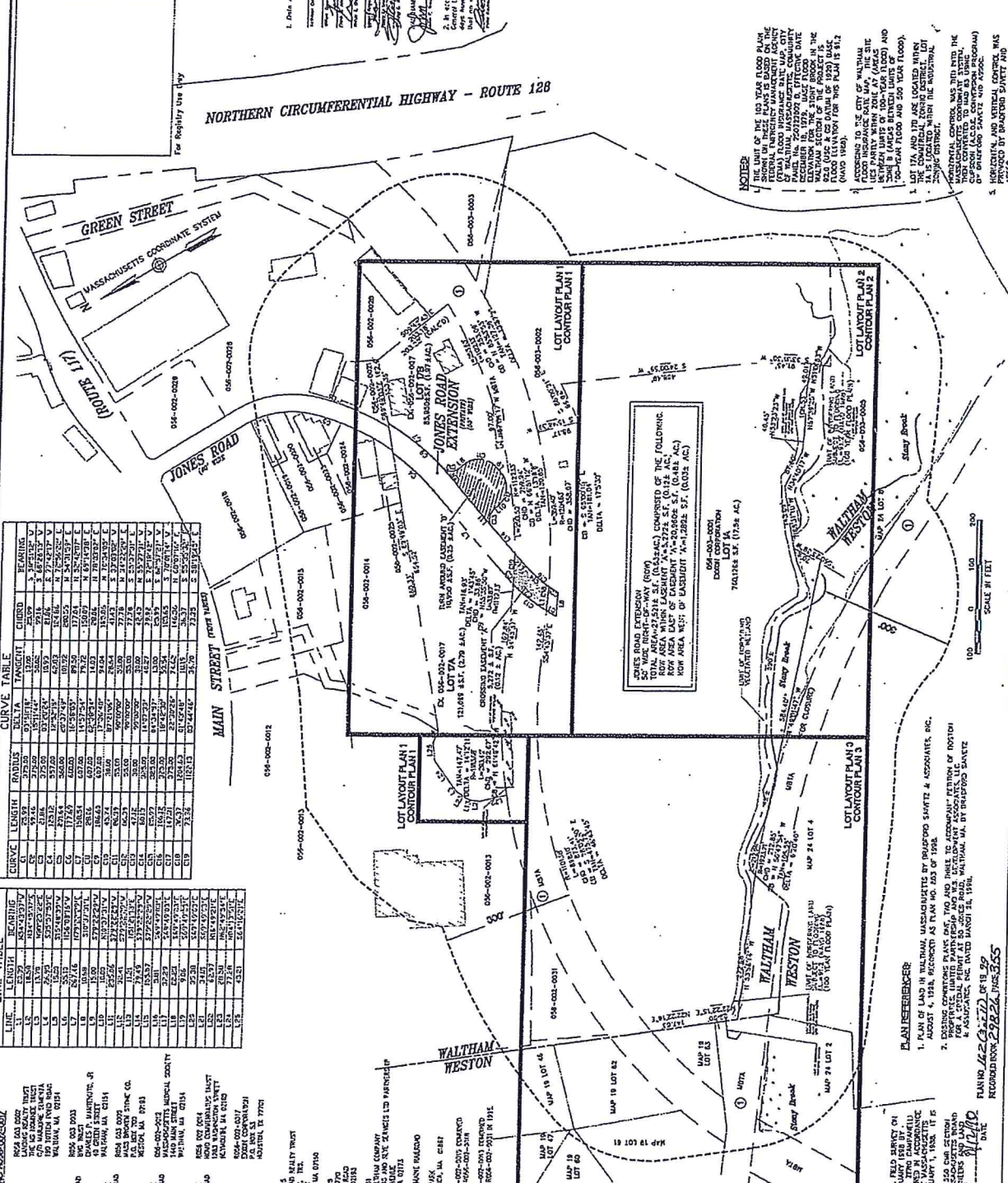


**Verrill Albritton Brannen, Inc.**  
 101 Walnut Street, P.O. Box 9151  
 Boston, MA 02111  
 Telephone: 617-552-1100  
 Facsimile: 617-552-1101

**Professional Engineer**  
 License No. 10000  
 State of Massachusetts  
 Date: 10/11/96

NO.	DESCRIPTION	DATE
1	PRELIMINARY PLAN	10/11/96
2	FINAL PLAN	10/11/96

**Jones Road Extension**  
 Waltham, Massachusetts  
 Definitive  
 Subdivision  
 Plan Approval  
 Key / Lotting  
 Plan



LINE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	BEARING
1	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
2	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
3	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
4	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
5	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
6	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
7	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
8	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
9	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
10	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
11	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
12	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
13	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
14	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
15	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
16	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
17	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
18	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
19	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
20	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
21	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
22	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
23	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
24	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
25	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
26	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
27	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
28	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
29	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
30	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W

LINE	LENGTH	RADIUS	DELTA	TANGENT	CHORD	BEARING
31	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
32	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
33	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
34	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
35	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
36	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
37	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
38	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
39	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
40	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
41	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
42	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
43	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
44	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
45	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
46	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
47	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
48	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
49	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W
50	12.50	100.00	14.04	12.50	25.00	S 89° 58' 16" W

**PLAN REVISIONS**

NO.	DATE	DESCRIPTION
1	10/11/96	PRELIMINARY PLAN
2	10/11/96	FINAL PLAN

**NOTES**

- THE UNIT OF THE 100 YEAR FLOOD PLAIN... (text continues)
- LOT 17A AND 17D ARE LOCATED WITHIN THE... (text continues)
- HORIZONTAL AND VERTICAL CONTROL WAS... (text continues)

**PLAN REFERENCED**

- PLAN 84-134-N, RECORDING MASSACHUSETTS BY BRADSHAW SAVY & ASSOCIATES, INC.
- EXISTING CONVERSE PLANS OF THE CITY OF WALTHAM.

162-3

PLAN NO. 162-3-23, OF 18-29  
 RECORDED BOOK 2322, PAGE 355

THIS PLAN WAS PREPARED BY AN ACTUAL FIELD SURVEY ON... (text continues)

AGREEMENT

This AGREEMENT is made this 6<sup>th</sup> day of November, 2000 by and between STONY BROOK ASSOCIATES LLC, a Delaware limited liability company ("SBA") and the CITY OF WALTHAM (the "City").

WHEREAS, SBA is the owner of the property described on Exhibit A attached hereto (the "Property").

WHEREAS, in connection with ongoing discussions between the City and SBA regarding the development of the Property, the City has requested that SBA explore possible means of managing the traffic to be generated by the Property as currently proposed to be developed and as may be further developed in the future.

WHEREAS, in order to address the City's concerns about the impact of the current and future development of the Property on traffic patterns on the adjacent roadways and in the surrounding neighborhoods within the City, SBA has agreed to seek the approval of the City prior to constructing any additional improvements on the Property with greater floor area or more parking than that proposed in SBA's pending application for a building permit.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. SBA covenants and agrees that it will not construct more than 304,050 square feet of gross floor area (as measured in accordance with the City of Waltham Zoning Code in effect as of the date hereof) or more than 1,221 parking spaces on the Property, except to the extent that any such additional development (i) has been approved by a majority vote of the Waltham City Council and (ii) otherwise satisfies applicable zoning and permitting requirements. It is understood and agreed that this Section 1 is intended to apply even under circumstances where applicable zoning and permitting regulations might not otherwise require SBA to obtain the approval of the Waltham City Council to further develop the Property, such as a development as of right that does not require a special permit, so that the City will have an opportunity to address traffic-related and other concerns with respect to any such future development.

2. This Agreement is intended to be a covenant running with and appurtenant to the Property, shall be binding upon all parties having or acquiring any right, title or interest in or to the Property, shall inure to the benefit of the City and may be enforced in proceedings at law or in equity by the City.

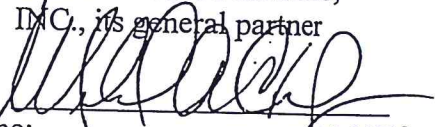
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, under seal, on the day and year first above written.

STONY BROOK ASSOCIATES LLC

By: JONES ROAD DEVELOPMENT  
ASSOCIATES LLC, a managing member

By: BOSTON PROPERTIES LIMITED  
PARTNERSHIP, a managing member

By: BOSTON PROPERTIES,  
INC., its general partner

By:   
Name: **MICHAELA A. CANTALUPA**  
Title: **SENIOR VICE PRESIDENT**  
**BOSTON PROPERTIES, INC.**

CITY OF WALTHAM

By: David F. Gately  
Name: David F. Gately  
Title: Mayor

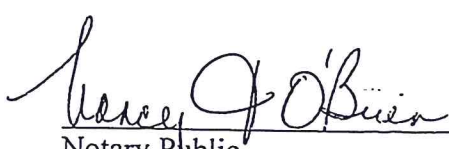


THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

November 6, 2000

Then personally appeared the above-named Michael A. Cantalupa, the Senior Vice President of Boston Properties, Inc., and acknowledged the foregoing instrument to be his free act and deed as such officer as aforesaid and the free act and deed of Stony Brook Associates LLC, before me,

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

NANCY J. O'BRIEN  
Notary Public  
My Commission Expires June 5, 2003

THE COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

November 15, 2000

Then personally appeared the above-named <sup>David F.</sup> Gately, the MAYOR of the City of Waltham, and acknowledged the foregoing instrument to be his free act and deed in such capacity as aforesaid and the free act and deed of said municipality, before me,

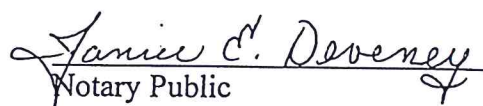
  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 8-30-2002

EXHIBIT A

Legal Description

Those certain parcels of land shown as Lots 1A, 17A and 17B on Sheet C-3 of the Subdivision Plans for Jones Road Extension, Waltham, Massachusetts prepared by Vanasse Hangen Brustlin, Inc. and dated August 12, 1998, which Subdivision Plans were approved by the Waltham Board of Survey and Planning on January 6, 1999 and recorded with the Middlesex South District Registry of Deeds on February 22, 1999 as Plan #162 of 1999.

Exhibit C  
(8 PAGES)

FIRST AMENDMENT TO  
DECLARATION OF RESTRICTIONS – DEVELOPMENT PARCEL

This First Amendment to Declaration of Restrictions – Development Parcel (the “**First Amendment**”) is entered into as of this 17<sup>th</sup> day of November, 2016 by and between BP Weston Quarry LLC, a Delaware limited liability company with an address c/o Boston Properties, Inc., 800 Boylston Street, Suite 1900, Boston, Massachusetts 02199-8103 (“**BPWQ**”), the Town of Weston, Massachusetts, acting by and through the Board of Selectmen (“**Selectmen**”), with an address at Weston Town Hall, Weston, Massachusetts 02493 (the “**Town**”).

**WITNESSETH:**

**WHEREAS**, BPWQ is the fee simple owner of a certain parcel of land consisting of approximately 73.977 acres (the “**Development Parcel**”) located off Boston Post Road, Weston, Middlesex County, Massachusetts, as shown on a plan entitled “Plan of Land in Waltham, MA (Middlesex County) and Weston, MA (Middlesex County),” dated April 19, 1995, prepared by Beals and Thomas, Inc. (the “**Plan**”), recorded with the Middlesex South District Registry of Deeds (the “**Registry**”) on November 15, 2001, as Plan No. 1135 of 2001, and as more particularly described in Appendix 1 (Development Parcel) attached hereto and made a part hereof and under a deed recorded on December 20, 2001 at Book 34371, Page 131;

**WHEREAS**, by an instrument entitled “Declaration of Restrictions – Development Parcel” by and between BPWQ and the Town, dated as of June 4, 2008, recorded with the Registry on December 18, 2008, Book 51990, Page 296 (the “**2008 Declaration of Restrictions**”), BPWQ and the Town established certain restrictive covenants on the Development Parcel, as more particularly set forth in the 2008 Declaration of Restrictions;

WHEREAS, the Development Parcel is shown on plans, including a definitive plan recorded at the Registry on November 19, 1999 at Plan Book 30879, Page 210, which shows 6 Lots ("1999 Definitive Plan");

WHEREAS, BPWQ, as fee simple owner of the Development Parcel, and the Town, acting by and through its Selectmen pursuant to the rights granted in the 2008 Declaration of Restrictions, the Vote of Town Meeting on Warrant Article 8 of the December 1, 2008 Special Town Meeting, Article II, Section 1 of the Weston General Bylaws, Section 3 of Chapter 40 of the General Laws of Massachusetts, and all other enabling authority, as grantee of the restrictive covenants set forth in the Declaration of Restrictions, desire to amend such restrictive covenants, which amendments have been approved by the Selectmen at its public meeting held on November 15, 2016.

NOW, THEREFORE, for good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, BPWQ and the Town hereby agree with each other as follows:

(1) Paragraph (1) of the 2008 Declaration of Restrictions is hereby deleted in its entirety and replaced with the following:

“(1) Development of the Development Parcel shall be limited to the following:

(a) multiple buildings on Lots 1-3, as shown on the 1999 Definitive Plan, may be used for the intermodal train station use described below in paragraph c and for office use or office building use and uses and structures accessory or incidental thereto (including, without limitation, parking (whether surface or structured) accessory to such buildings); but Lots 1 and 2 shall not be used for any other purposes; and, furthermore, the office uses, having an initial maximum gross floor area of no more than 350,000 square feet, may have an additional amount of gross floor area as determined by the Weston Zoning Board of Appeals and Planning Board and subject to consideration of the appropriate traffic and other impact studies, but in no event less than an additional 175,000 square feet of gross floor area;

(b) multiple buildings on Lots 3-5 as shown on the 1999 Definitive Plan may be used for the intermodal train station use described below in paragraph c and for a multi-

family rental residential uses and uses and structures accessory or incidental thereto (including, without limitation, parking (whether surface or structured) accessory to such buildings) having no less than 275 rental units, provided that such multi-family rental residential project contains 25% affordable units available to tenants with income levels not greater than 80% AMI as determined by DHCD and with the bedroom mix to take into consideration the Town's Housing Production Plan, with input to be obtained from the Board of Selectmen, and with the rental units to be as approved by the Weston Zoning Board of Appeals pursuant to M.G.L. c.40B, §§20-23, which may consider the Town's Housing Production Plan, appropriate traffic impact studies, school impact studies, fiscal impact studies and school transportation analyses, with school bus and emergency vehicle access to be allowed from Boston Post Road to serve the residential uses; but with Lots 4 and 5 to be used only for the allowed train station and residential rental uses and no other purposes;

(c) an intermodal train station, including, without limitation, a platform and parking garage may take place on the Development Parcel; and

(d) All of the above shall be exclusive of:

- (i) the existing "Ella M. Brotchie House";
- (ii) one additional accessory structure of no more than two stories high to be used as waste water treatment facility serving the Development Parcel; and
- (iii) any other public or quasi-public transportation improvements approved by the Weston Board of Selectmen; provided, however, that the calculations of gross floor area set forth in clause (a) of this Paragraph (1) shall exclude the gross floor area of any parking (whether surface or structured parking) and any wastewater treatment plant on the Development Parcel."

The Town and BPWQ acknowledge and agree that BPWQ may build the multi-family rental residential buildings (and structures accessory or incidental thereto) as provided for hereunder and as may be authorized in the future under a comprehensive permit issued under G.L. c. 40B in the areas of the Development Parcel shown as Lot 3, Lot 4, and Lot 5 on the 1999 Definitive Plan (including any lot reconfigurations of those said lots that are necessary or desirable to construct the residential project), and furthermore, that such multi-family rental residential buildings (and structures accessory or incidental thereto) are not subject to the specific story and height limitations and the specific 125 foot setback from the Conservation Parcel and planting buffers and the building profile limitation as set forth in the restrictive covenants set forth in Paragraphs(2), (2A), and (6) of the 2008 Declaration of Restrictions, provided that any such multi-family rental residential project that is approved by the Weston Zoning Board of Appeals pursuant to M.G.L. c.40B, §§ 20-23 shall consider those issues and that, in any event, any such rental residential buildings to be constructed within the area of the Development Parcel that is shown as Lot 5 on the 1999 Definitive Plan shall be set back a minimum of 125 feet from the northerly line of the Conservation Parcel; and there shall be no new construction at all on Lot 6 as shown on the 1999 Definitive Plan .

(2) Paragraph (5) of the Declaration of Restrictions is hereby amended by adding the following as a new clause (g) immediately following clause (f) therein:

“(g) residential amenities normally and customarily found in first-class rental residential buildings, including, but not limited to, the following:

- (i) community room;
- (ii) swimming pool;
- (iii) athletic courts; and
- (iv) home theatre.”

(3) The parties hereto acknowledge and agree that this First Amendment constitutes evidence of Boston Properties’ site control over the Development Parcel for the purposes of Boston Properties’ submission of a Comprehensive Permit Site Approval Application/Rental to the Massachusetts Housing Finance Agency for the multi-family rental residential project on the Development Parcel pursuant to M.G.L. c.40B §§ 20-23 and 760 CMR 56.04(1)(c).

Except as otherwise expressly provided herein, all capitalized terms used herein without definition shall have the same meanings as set forth in the Declaration of Restrictions.

Except as herein amended, the Declaration of Restrictions shall remain unchanged and in full force and effect. All references to the “Declaration of Restrictions” shall be deemed to be references to the Declaration of Restrictions as herein amended.

This First Amendment shall not be effective unless and until all of the following occur:

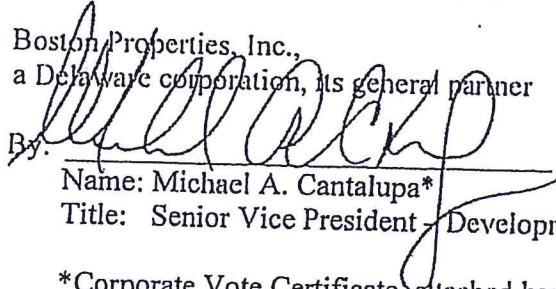
1. The Weston Board of Selectmen, is authorized to accept this First Amendment by vote of the Weston Town Meeting (if the Board of Selectmen determines, in its sole discretion, that such authorization is required) as indicated by the recording of a copy of the vote certified by the Town Clerk, at which time this First Amendment will become effective as of the date hereof.
2. A comprehensive permit, which takes final effect, is issued for at least 275 rental residential units on Lots 3, 4 and/or 5 as shown on the 1999 Definitive Plan .
3. The building permit issues for the first phase of the residential rental project, which shall consist of at least 150 residential rental units.
4. The new office space authorized hereunder shall not be issued occupancy certificates unless and until construction commences on the first phase of 150 residential rental units as described above issues.

Executed under seal as of this 10 day of November, 2016.

BP WESTON QUARRY LLC,  
a Delaware limited liability company

By: Boston Properties Limited Partnership,  
a Delaware limited partnership, its managing member

By: Boston Properties, Inc.,  
a Delaware corporation, its general partner

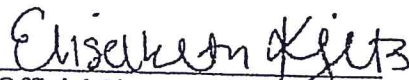
By:   
Name: Michael A. Cantalupa\*  
Title: Senior Vice President - Development

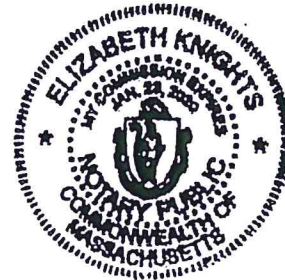
\*Corporate Vote Certificate attached hereto.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF Suffolk )

On this 10 day of November, 2016 before me, the undersigned notary public, personally appeared Michael A. Cantalupa, Senior Vice President – Development, of Boston Properties, Inc., proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document and acknowledged to me that he signed it, as duly authorized on behalf of Boston Properties, Inc., as general partner of Boston Properties Limited Partnership, as managing member of BP Weston Quarry LLC, voluntarily for its stated purposes as aforesaid.

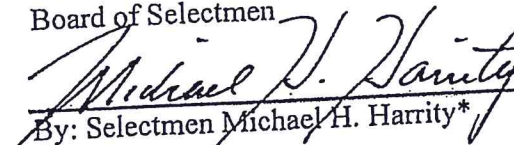
  
[Official Signature and Seal of Notary Public]  
My Commission expires: Jan 23, 2020



ACCEPTANCE

The above First Amendment to Declaration of Restrictions is accepted and agreed to this 17 date of November, 2016, by the Town, acting by and through its Selectmen pursuant to the rights granted in the 2008 Declaration of Restrictions, the Vote of Town Meeting on Article 8 of the December 1, 2008 Special Town Meeting, Article II, Section 1 of the Weston General Bylaws, Section 3 of Chapter 40 of the General Laws of Massachusetts, and all other enabling authority, as grantee of the restrictive covenants set forth in the Declaration of Restrictions and as provided for above.

TOWN OF WESTON  
Board of Selectmen

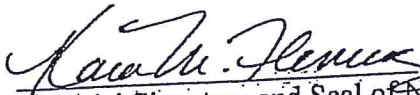
  
By: Selectmen Michael H. Harrity\*

\*Authorized by a vote taken on 11/15/16

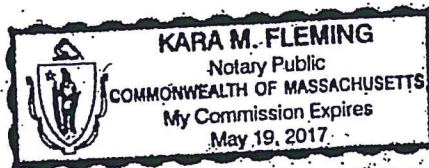
COMMONWEALTH OF MASSACHUSETTS )

COUNTY OF Middlesex )

On this 17<sup>th</sup> day of November, 2016, before me, the undersigned notary public, personally appeared Michael H. Harrity, a member of the Board of Selectmen of the Town of Weston, proved to me through satisfactory evidence of identification which was personally known to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purposes as aforesaid.



[Official Signature and Seal of Notary Public]  
My Commission expires: MAY 19, 2017





## APPENDIX 1—DEVELOPMENT PARCEL

### LEGAL DESCRIPTION

A certain parcel of land with the buildings and other improvements thereon situated in Weston and Waltham, Middlesex County, Massachusetts, shown as Lot Area 3,222,453 ± SF or 73.977 ± AC on a plan entitled "Plan of Land in Waltham, MA (Middlesex County) and Weston, MA (Middlesex County)," dated April 19, 1995, prepared by Beals and Thomas, Inc. (the "Plan"), recorded with the Middlesex South Registry of Deeds on November 15, 2001, as Plan No. 1135 of 2001, and bounded and described according to the Plan as follows:

Beginning at a bound at a point; northwesterly of the bridge carrying the westbound ramp from Route 128 to the Boston Post Road over the railroad tracks of the Massachusetts Bay Transportation Authority ("MBTA"), which was formerly the Fitchburg Division of the Boston & Maine Railroad, thence running

S 23°32'53" W	by the layout of the ramp, 209.22 feet; thence
S 46°40'28" E	1.76 feet; thence
S 48°48'13" W	99.24 feet; thence
SOUTHWESTERLY	by a curve to the right with a radius of 2755.95 feet and a length of 467.14 feet; thence
S 58°30'55" W	87.09 feet; thence
WESTERLY	by a curve to the right with a radius of 1160 feet and a length of 441.54 feet, the last four bounds being by the Boston Post Road; thence
N 08°08'45" E	443.15 feet; thence
NORTHWESTERLY	by a curve to the left with a radius of 322.00 feet and a length of 245.08 feet; thence
N 69°37'45" W	248.97 feet to the northerly end of a stone wall, the last three bounds being by land now or formerly of Richard and Mary C. Robinson, as shown on the Plan, thence
N 20°19'30" E	110.73 feet; thence
N 14°58'41" E	44.64 feet; thence
N 20°46'58" E	255.85 feet; thence
N 09°12'54" E	99.00; thence
N 61°45'00" W	313.50 feet; thence

N 89°24'27" W	66.00 feet; thence
N 79°41'07" W	625.80 feet; the last seven bounds being by land now or formerly of Margaret Gifford School, Inc.; thence
N 04°28'22" E	147.75 feet; thence
N 63°26'58" W	917.64 feet, the last two bounds being by land now or formerly of Edwin B. Sears and the Town of Weston, to land of the MBTA which was formerly the Central Massachusetts Division of the Boston and Maine Railroad; thence
N 59°07'29" E	by land now or formerly of Massachusetts Bay Transportation Authority (Central Mass. Division), 1548.77 feet to a point south of the bridge which carries the Central Massachusetts track over the Fitchburg Division tracks; thence
S 53°55'18" E	238.97 feet to the approximate location of the Waltham/Weston city/town line; thence
S 22°25'12" W	by the approximate line, 8.49 feet; thence
S 53°55'18" E	by the approximate line, 251.74 feet; thence
SOUTHEASTERLY	by two curves to the right, one with a radius of 1840.71 feet and a length of 203.72 feet, and the other with a radius of 2001.54 feet and a length of 43.86 feet; thence
S 42°45'08" E	101.21 feet; thence
S 40°03'43" E	41.30 feet; thence
SOUTHEASTERLY	by a curve to the right with a radius of 1871.41 feet and a length of 486.76 feet thence
S 27°17'28" E	67.33 feet; thence
S 26°18'49" E	241.73 feet; thence
S 26°13'10" E	983.83 feet to the point of beginning.

Together with the right to use easements contained in a Grant of Easement from Robinson/Waltham Company to Massachusetts Broken Stone Company dated September 19, 1993, recorded in Book 23731, Page 83.