

596 North Avenue Apartments

Chapter 40B Comprehensive Permit Application



Applicant: 0 North Ave Wakefield, LLC
Legal: Regnante Sterio
Engineering: Williams & Sparages
Architecture: Phoenix Architects
Landscaping: Elliott Brundage Landscape Architecture
Traffic/Safety: Vanasse & Associates

TOWN OF WAKEFIELD

Board of Appeals

One Lafayette Street
Wakefield, MA 01880
781-246-6388



Office use:

APPLICANT: COMPLETE THREE (3) COPIES OF THIS FORM

- 1) Applicant name: _____ Phone: _____
Street address: _____ City: _____ State: _____
Representative(s): _____ Phone: _____
Mailing street address: _____ City: _____ State: _____
- 2) Owner name (if different from applicant): _____ Phone: _____
Street address: _____ City: _____ State: _____
Representative(s): _____ Phone: _____
Mailing street address: _____ City: _____ State: _____

- 3) If the applicant is not the property owner, indicate the interest in the premises:

Prospective purchaser

Lessee

Other, please specify _____

- 4) Application is hereby made pursuant to Chapter 190 "Zoning Bylaws of the Town of Wakefield."

Select one: a separate application is required for each relief

a. Variance under Article _____ Section _____

b. Special Permit under Article _____ Section _____

c. Party aggrieved; for review of a decision made by the Building Inspector or other authority (attach decision)

d. Determination and/or finding with respect to a continuation and extension of nonconforming uses under

Article _____ Section _____

e. Application is hereby made for: a modification of

Decision(s) # _____

or for the extension of _____

Decision(s) # _____

[attach decision(s)]

f. Comprehensive permit pursuant to M.G.L. Chapter 40B

Note: Special permit requirements are not all in one Article or Section. Refer to Chapter 190 "Zoning Bylaws of the Town of Wakefield" for additional information.

5) Characteristics of the premises.

- a) Address of premises affected: _____
- b) Premises affected is land with frontage on (street): _____
in a _____ zoning district, with area _____ and frontage of _____ feet.
- c) Assessors' map number(s) _____ Lot/parcel(s) _____
- d) Has there been any previous appeal or decision to the Board involving these premises?
- Yes, attach application(s) and decision(s) No Unknown

6) Building description

- a) Size of existing building, if applicable: _____
Length: _____ Width: _____ Height: _____ Number of stories: _____
Unknown
- b) Present use of each floor: 1st: _____ 2nd: _____ 3rd: _____
- c) Size of proposed building: _____
Length: _____ Width: _____ Height: _____ Number of stories: _____
Unknown

7) Description of proposed work and/or use:

8) Reason(s) for the relief requested are as follows (please attach additional sheets if needed):

- 9) I, _____, as the owner, prospective purchaser, lessee, or representative, hereby declare that the statements and information on the foregoing application are true and accurate, to the best of my knowledge and belief. Signed under the pains and penalty of perjury.

Print name: _____

Signature: Jesse D. Schomer, Esq.

Date: _____



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January 25, 2022

Via Hand Delivery

Town of Wakefield
Board of Appeals
Attn: David W. Hatfield, Chair
Wakefield Town Hall
1 Lafayette Street
Wakefield, MA 01880

Re: M.G.L. c. 40B Comprehensive Permit Application
Applicant: 0 North Ave Wakefield, LLC
Property Location: 596 North Avenue, Wakefield, MA

Dear Board Members:

This office is legal counsel to 0 North Ave Wakefield, LLC (“Applicant”). This letter and the enclosed attachments comprise an application pursuant to M.G.L. c. 40B and the regulations of the Commonwealth of Massachusetts Department of Housing and Community Development (“DHCD”) thereunder (760 CMR 56.00) (“Act”), and the rules and regulations of the Wakefield Board of Appeals (“Board”), for a Comprehensive Permit (“Permit”) to authorize the construction of a 38 unit rental apartment development (“Project”) on the property located at 596 North Avenue, Wakefield, MA (“Property”).

I. The Applicant

The Applicant is a Massachusetts limited liability company with a business address of 544 Salem Street, Wakefield, MA 01880. A copy of the Applicant’s certificate of organization can be

found under Tab 1. The Applicant's manager is Dana Lopez. The Applicant has stipulated and agreed to a limitation on its return on total investment in the Project pursuant to the requirements of the Act. Accordingly, the Applicant qualifies as a limited dividend entity within the meaning of the Act. See 760 CMR 56.04(1)(a); 760 CMR 56.02.

The Applicant will be the developer of the Project and has obtained from the owner of the Property, Raymond Nickerson and Dana Lopez ("Owners"), an assignment of the development rights with respect to the Property. See Tab 2. As further evidence of site control of the Property within the meaning of the Act, see 760 CMR 56.04(1)(c), a copy of the recorded deed to the Property can also be found under Tab 2.

II. The Development Team

The Applicant's development team for the Project is as follows:

DEVELOPER
0 North Ave Wakefield, LLC
Dana Lopez, Manager

CIVIL ENGINEERING
Williams & Sparages LLC
Chris Sparages, P.E.

LEGAL
Regnante Sterio LLP
Jesse D. Schomer, Esq.

LANDSCAPE DESIGN
Elliott Brundage Landscape Architecture
Elliott Brundage, RLA

ARCHITECTURE
Phoenix Architects
Peter L. Sandorse, AIA

TRAFFIC/SAFETY
Vanasse & Associates, Inc.
Scott W. Thornton, P.E.

Contact information and biographical information for the Development Team can be found under Tab 3.

III. Project Eligibility

The Applicant has received a project eligibility/site approval letter for the Project from the Massachusetts Housing Finance Agency ("MassHousing"). A copy of this letter, which is dated

September 29, 2021, (“PEL”) is hereby submitted in compliance with 760 CMR 56.05(2)(g). See Tab 4. Obtaining the PEL satisfies the jurisdictional requirements of 760 CMR 56.04(1). MassHousing has given all required notices of the Project and the issuance of the PEL to the Town of Wakefield Select Board (“Select Board”) and the Massachusetts Department of Housing and Community Development (“DHCD”). Funding for the Project will be provided through a Massachusetts bank (to be determined) that is a member of the New England Fund (“NEF”), which is a qualifying subsidy program designed to facilitate the development of affordable housing.

The PEL issued by MassHousing discusses a number of issues that it suggested should be addressed during the public hearing before the Board. MassHousing’s comments, and the Applicant’s responses, are as follows:

- **MassHousing Comment 1:** “The Municipality notes the need for improved pedestrian access in and out of the Site and a pedestrian connection to existing sidewalks.”

Applicant’s Response: Currently, the only sidewalk in the vicinity of the Property is on the far side of North Avenue, and the Applicant notes that the adjacent Chapter 40A developments located at 598 and 600 North Avenue were not required by the Board to install public sidewalks as a condition of the approval of these residential buildings. Nonetheless, the Project proposes to construct a new sidewalk along the entirety of the Property’s North Avenue frontage to enable future sidewalk connections to be made if the Town of Wakefield elects to do so. The Applicant would be open to consideration of adding pedestrian accommodations for crossing North Avenue at the Project site if approved by the Town of Wakefield. Additionally, the Project site includes sidewalks throughout the site, which provide access to three sides of the building, the parking field, and both building entrances.

- **MassHousing Comment 2:** “The Municipality believes that the proposal is out of character with the surrounding single-family neighborhoods.”

Applicant’s Response: The Project is proportional to adjacent Chapter 40A developments located at 598 and 600 North Avenue, both recently approved by the Board. The Project is similar in scale and density to these developments and has been designed by the same architecture firm to complement these buildings. Other development in the vicinity of the Project site include the Lakeside Office Park,

two automobile dealerships and various other commercial amenities, the Knights of Columbus building, and Lake Quannapowitt and its recreational areas. Although there are some single-family residences to the south of the Project, the above-described mixed-use and multifamily uses predominate the area, and the Project fits seamlessly into this fabric of development.

- **MassHousing Comment 3:** “The Municipality emphasized that the Project must be designed to ensure the maximum level of emergency access and fire protection.”

Applicant’s Response: The Project has been designed to comply with all applicable access and safety laws and regulations. The Applicant anticipates reviewing the Project in detail with Town Department Heads, including the Wakefield Fire Chief, to confirm that the Project will be in full compliance with any/all applicable laws and regulations.

- **MassHousing Comment 4:** “The Municipality noted potential challenges with the development of the Site, given that the Site is heavily impacted by wetlands.”

Applicant’s Response: The Applicant acknowledges that the majority of the Project site consists of wetlands resources, which are protected under the Massachusetts Wetlands Protection Act. The Project does not propose any work in or alteration of wetlands resources of any kind. Because the Project proposes activity within 100 feet of wetlands resources, it will be subject to review and approval by the Wakefield Conservation Commission in order to ensure that wetlands resources are appropriately protected. The Applicant further notes that wetlands resources are similarly situated relative to the adjacent developments at 598 and 600 North Avenue; these developments stand as definitive proof that the proximity to wetlands resources can be satisfactorily addressed.

- **MassHousing Comment 5:** “The Municipality emphasized the importance of improving bike- and pedestrian-friendly infrastructure.”

Applicant’s Response: As noted, the Project includes on-site sidewalks as well as construction of a new sidewalk along the Property’s North Avenue frontage to allow for the Project site to be integrated into any future sidewalk expansion plans that the Town of Wakefield may have. The Applicant looks forward to a discussion with the Board of appropriate on-site bicycle accommodations.

- **MassHousing Comment 6:** “The following comments submitted to MassHousing identified issues that are not within the scope of our review: The Municipality raised concerns regarding overcrowding at public schools and increased public services needed to meet the demands of the proposed project.”

Applicant's Response: Per controlling Housing Appeals Committee and judicial precedents, matters such as school enrollment and impacts on public services are not relevant considerations in the context of development proposals such as this, as the provision of such public services is a matter squarely within the responsibility of the Town. The Applicant has no further comment regarding this matter.

- **MassHousing Comment 7:** “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 related to building construction, stormwater management, wastewater collection and 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.”

Applicant's Response: The Applicant is aware that compliance with all applicable state and federal laws, regulations, and standards is required of the Project and looks forward to a discussion of same with the Board as the Project advances.

- **MassHousing Comment 8:** “The Applicant is encouraged to work with its design team to address concerns related to pedestrian circulation, open space elements and providing safe connections to existing sidewalks.”

Applicant's Response: The pedestrian accommodations of the Project are discussed further above. The Applicant looks forward to a further discussion of such issues as the Project advances. With respect to open space, the Applicant notes that over 87% of the Project site will remain open space, including a significant open area on the north side of the proposed building.

- **MassHousing Comment 9:** “The Applicant should engage with the Municipality's Fire and Police Departments to review and modify plans as needed and to ensure adequate access is provided for emergency vehicles and responders.”

Applicant's Response: The Applicant looks forward to engaging with all Town Department Heads, including Police and Fire, as the Project advances.

- **MassHousing Comment 10:** “The Applicant is encouraged to explore alternatives to enhance the pedestrian experience including providing opportunities for both active and passive recreation, play areas for children and bike storages.”

Applicant's Response: Pedestrian accommodations and site open spaces are discussed further above. With respect to recreation spaces, the Applicant looks forward to a discussion of this matter with the Board. The Applicant further notes that all units in the Project will have patios or balconies, and that the Project site is located a short walk from Lake Quannapowitt and its recreational areas.

The within Application addresses each of these issues, which will be further addressed by the Development Team at the public hearings on this Application.

IV. The Existing Condition of the Property and Surrounding Area

The following summary of the existing condition of the Property and the surrounding site area is submitted in compliance with 760 CMR 56.05(2)(b).¹ Enclosed under Tab 5 are a series of maps and aerial plans showing the location of the Property and surrounding site.

The Property is located in northwest Wakefield, approximately a quarter mile from the junction of North Avenue and I-95/Route 128. The property abuts multifamily residential developments located at 598 and 600 North Avenue, the Knights of Columbus Council 104 headquarters and function space, and is across North Avenue from the Lakeside Office Park. Other development nearby consists of single-family residences, primarily to the south of the site. The Property is located in the Single Residence (SR) zoning district and abuts the Business (B) zoning district.

This location is well-served by numerous commercial and community amenities and public transport within walking or biking distance, including Lakeside Office Park, the Walkers Brook Parkway shopping centers, Lake Quannapowitt and its recreational areas, and the Wakefield Town Center. MBTA bus Line 137 runs along North Avenue and provides service to Reading Town Center and multiple MBTA Haverhill Line Commuter Rail stations with service into downtown

¹ 760 CMR 56.05(2)(b) requires “a report on existing site conditions and a summary of conditions in the surrounding areas, showing the location and nature of existing buildings, existing street elevations, traffic patterns and character of open areas, if any, in the neighborhood. This submission may be combined with that required in 760 CMR 56.05(2)(a).”

Boston. For automobile commuters, the Project site is conveniently located near the North Avenue I-95/Route 128 exit, with access to all points.

The Property has 323 feet of frontage on North Avenue and a total land area of approximately 5.06 acres. It is presently undeveloped and much of the site consists of wetlands, which will remain undeveloped and untouched. The upland area of the site will be largely cleared to make way for development of the Project. Photos of the Property and surrounding properties are enclosed under Tab 6.

The existing condition of the Property is shown on Sheet C2 of a set of preliminary engineering plans enclosed herewith under Tab 7 (“Engineering Plans”), which were prepared by Williams & Sparages LLC. These Engineering Plans fully comply with and fulfill all requirements of 760 CMR 56.05(2)(a) with respect to the submission of preliminary site development plans and engineering plans.² The aerial plans and site context photographs (see Tabs 5 and 6), together with the above-noted existing condition plans (see Tab 7) and the within existing condition narrative, fulfil the requirement of 760 CMR 56.05(2)(b) for an existing conditions summary for the Project.

Existing public utilities servicing the Property include underground public sewer, public water, public storm sewer, and natural gas, as well as overhead electrical and cable, telephone, and other communication lines, all located in North Avenue. See Tab 7, Sheet C2.

² The engineering and site plans required by 760 CMR 56.05(2)(a) are as follows: “preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site. . . . All Projects of five or more units must have site development plans prepared by a registered architect or engineer.”

As noted above, most of the Project site consists of jurisdictional wetlands resources. The Project will be subject to review by the Wakefield Conservation Commission for any/all work within 100 feet of wetlands resources. See Tab 8.

A review of the Federal Emergency Management Agency Flood Insurance Rate Maps shows that the Property is located entirely within a Zone X (Area of Minimal Flood Hazard). See Tab 9. A review of the Massachusetts Division of Fisheries and Wildlife maps indicates that the Property does not contain (and is not within 100 feet of) any certified or potential vernal pools as mapped by MassDEP. See Tab 10. The Applicant has also reviewed the current Massachusetts Natural Heritage Atlas, 14th Edition (2017), which indicates that no portion of the Property is within any protected Priority Habitat or Estimated Habitat for species protected by the Natural Heritage & Endangered Species Program (NHESP). See Tab 11.

As noted above, the Property is undeveloped and it is not the location of any historically protected resources. See Tab 12. Therefore, it is not subject to any local, state, or federal historical protections.

V. Description of the Project

A. *Project Overview*

The proposed site conditions of the Project are shown on Sheets C3-C7 of the Engineering Plans. See Tab 7. Proposed design features, floorplans, elevations, sections, and renderings for the Project are shown on the architectural plans prepared by Phoenix Architects (“Architectural Plans”), which can be found at Tab 13. The Architectural Plans fulfil the requirement of 760 CMR

56.05(2)(c) to submit preliminary, scaled architectural plans.³ Under the Act, plans filed with a Comprehensive Permit application may be preliminary plans, and the Applicant reserves the right to revise said plans prior to final approval of the Project. A tabular analysis of the proposed building, in compliance with 760 CMR 56.05(2)(d) is enclosed under Tab 14.⁴ No subdivision of the Property within the meaning of the Subdivision Control Law, M.G.L. c. 41, § 81L is proposed, so no subdivision plan is required pursuant to 760 CMR 56.05(2)(e).

The Project will consist of a single slab on grade, 4-story elevator access building with 38 residential units. The building will have a parapet roof containing and shielding mechanical units, and the total height from average grade to the top of the roof parapet will be 49'-5". The breakdown of the residential units is 21 one-bedroom units (55%), 13 two-bedroom units (34%), and 4 three-bedroom units (11%).⁵ The Project will fully comply with all applicable ADA accessibility requirements.

All units will be accessed internal corridors accessed via two building entrances on the front and rear of the building, which are accessible from the parking field and new proposed North Avenue sidewalks via pedestrian walkways around three sides of the building.

³ 760 CMR 56.05(2)(c) requires "preliminary, scaled, architectural drawings. For each building the drawings shall be prepared by a registered architect, and shall include typical floor plans, typical elevations, and sections, and shall identify construction type and exterior finishes".

⁴ 760 CMR 56.05(2)(d) requires "a tabulation of proposed buildings by type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas".

⁵ It should be noted that all Comprehensive Permit projects must have a unit mix with at least 10% of the units as three-bedroom units pursuant to an Interagency Agreement dated January 17, 2014 between DHCD, MassHousing, the Massachusetts Housing Partnership Fund Board ("MHP"), the Massachusetts Development Finance Agency ("MassDevelopment"), and the Community Economic Development Assistance Corporation ("CEDAC").

The building will have a single elevator. All apartments at ground level will have private, enclosed patios and all upper story units will have private balconies. There is no proposed common roof deck or rooftop access/amenities. On the ground floor, residents will have access to common amenities spaces, including lobby, mail room, and a gym with a bathroom.

B. *Project Architecture/Design*

The Project design seeks to complement the adjacent multifamily buildings at 598 and 600 North Avenue while also fitting in with other neighborhood uses, including commercial uses and single-family residential homes. Design elements were selected to relate the building to the adjacent multifamily buildings while not mimicking the style and architectural elements of those buildings.

To that end, the building was designed with a traditional brick veneer, which references the neighboring lakeside development. This traditional element is contrasted by contemporary casement windows, a steel entry roof, and standing seam metal bay roofs, which provide a more modern feel to the building and tastefully contrast the more traditional neighboring buildings. To avoid a cluttered façade, all venting is achieved through the roof, and no antennas or dishes will be allowed on the sides of the structure. To provide further visual interest, the top floor of the building has been designed with a contrasting grey cladding, which breaks down the massing of the building into two main portions and gives hierarchy to the structure and minimizes the scale of the front facade. Proposed cladding materials include brick veneer, Hardie plank siding, and Azek trim boards (or equivalent). Exterior building-mounted lighting will be Dark Sky compliant.

All units are spacious and sized to be appropriate for the market. The unit layouts are based on open floor plan kitchen/living/dining spaces with high quality finishes, with comfortably sized

bedrooms, bathrooms, laundry, and storage areas. All units will have washers and dryers and individual heating and cooling systems. Fully-accessible HC units and convertible units will be provided as and to the extent required by law. Interior finishes will be upscale, and the apartments have been sized to be consistent with market demand.

The use of design elements that are complementary to surrounding uses with high quality modern building materials and informed detailing will create a harmonious, appropriately scaled design. Moreover, the size, scale, and height of the building has been designed to complement the adjacent multifamily buildings permitted under local zoning to provide a congruous level of building massing. This design approach is in keeping with the recommendations of the *Handbook: Approach to Chapter 40B Design Reviews*, promulgated by DHCD, MassHousing, MassDevelopment, and MHP, which specifically contemplates multifamily apartment developments where the building typology has been designed to relate to the existing neighborhood and to reduce the visual impact of massing, height, and scale.

In sum, the Project will provide new, attractive affordable and market-rate rental options in a convenient location with easy access to local amenities and transit. The Project will thus provide a desirable place to live in a sought-after residential community with comfortable apartments and attractive amenities designed to serve the interests of residents in today's market.

C. *Project Civil Engineering and Site Design*

As Shown on Engineering Plan sheet C5 (survey and layout), the proposed building is situated in the upland portion at the front of the site. This proposed location was selected to provide a maximum buffer to neighbors while also respecting the wetlands resources on the Property and ensuring adequate space for maneuverability in the rear parking lot. As shown on the preliminary

landscaping plan enclosed herewith, landscaping is proposed around the building and surface parking area to further buffer the Project. See Tab 15. No active amenities spaces are proposed on site due to the availability of public parks and recreational spaces within walking distance to the site.

The Project is proposed to have a single two-way entry point on North Avenue, which leads to the parking field to the south and west of the building, which will contain 58 surface parking spaces. Three of the parking spaces will be accessible, which fully complies with state and federal requirements. *See* 521 CMR 23.2.1. No garage parking is proposed. Loading arrangements will be handled by means of an operations and maintenance plan for the Project, which will be prepared following construction and prior to the Project opening to residents. Garbage and recyclables will be handled in an enclosure located at the rear of the surface parking area, which represents the optimal location for collection purposes. The Project operations and maintenance plan will also address all aspects of site maintenance, including maintenance of landscaping, snow clearing and storage, etc. The driveway and surface parking area will allow emergency vehicles ample access to the proposed building, and additional access for firefighting can be achieved from North Avenue. As required by law, fire suppression systems will be provided in the units, and fire hydrant placement will be coordinated with the Wakefield Fire Department.

The stormwater management system for the Project is to utilize proprietary subsurface stormwater detention structures located under the parking area and site driveway near the front of the site. Runoff is captured from the buildings and various catch basins around the site and directed to this system, which is supported by a series of stormwater best management practices (BMPs), including deep sump catch basins and oil/water separation devices to ensure that runoff is cleaned

before it is released into the ground. In extreme weather events, the system will allow for overflow stormwater to exit this system towards the rear of the site via an overflow spillway, which is designed with an engineered level spreader to prevent erosion.

Full details and specifications for this system are outlined in the Applicant's Stormwater Management Report and on Sheets C3.1, C4.1, and C7.1-7.3 of the Engineering Plans. An executive summary of the Stormwater Management Report can be found at Tab 16 of the within binder, and the full report is also separately enclosed. This system has been designed to comply all 10 of Massachusetts Department of Environmental Protection (MassDEP) Stormwater Management Standards, as outlined in MassDEP's Stormwater Handbook, to the extent they are applicable. By complying with these standards, there is a presumption that the Project will adequately protect public and private water supply, groundwater supplies, provide for appropriate flood control and storm damage prevention, prevent pollution, protect fisheries, and protect wildlife habitat.

Sheet C4.1 of the Engineering Plans shows all proposed utilities for the Project and is submitted in compliance with 760 CMR 56.05(2)(f).⁶ The Project will be serviced by public water and sewer service from the Town of Wakefield via existing mains in North Avenue. The Project will be designed in accordance with the reasonable recommendations of the Wakefield Town Engineer so as not to have any material adverse impact on the Wakefield sewer or water systems. Natural gas service is also available via an existing line in North Avenue. The Project is proposed to connect to these lines and will have no adverse impact thereto. The Project will connect to an

⁶ 760 CMR 56.05(2)(f) requires "a preliminary utilities plan showing the proposed location and types of sewage, drainage, and water facilities, including hydrants".

existing overhead utility line, which will be utilized to provide electricity, cable television, telephone, and any/all other communication lines to the Project. The Project will have no adverse impact relative to public services or utilities to abutting properties or to the Town in general.

D. *Project Impacts and Impact Mitigation*

Site access has been designed in order to ensure no adverse impacts to public safety. As noted, public safety vehicles will have access to and from the Property via North Avenue, and the site layout has been designed to enable adequate access to the proposed building for firefighting equipment and emergency vehicles. With respect to traffic and safety, the Applicant has conducted a Traffic Impact Analysis dated December 2021, prepared by Vanasse & Associates, Inc. The executive summary of that report can be found under Tab 17, and the full report is also enclosed.

That study concluded, among other things, that “[t]he addition of Project-related traffic to the study area roadways and intersections is not anticipated to significantly impact traffic operations within the study area over No-Build conditions.” Further, “the Project can be safely accommodated with minimal impact on the area road network.” More specifically, the Project is projected to have a nominal impact on traffic conditions amounting to a total of 172 vehicle trips on average weekdays (i.e., on average, about 7 per hour), with 14 vehicle trips during weekday morning peak hours and 15 vehicle trips during weekday evening peak hours. With respect to traffic data collection, it should be noted that traffic conditions were adjusted to account for seasonal fluctuations in traffic as well as COVID-19 disrupted traffic conditions.

Regarding safety, the report notes that the study area has a crash rate of on average one per year, which is lower than the MassDOT district average. The majority of these crashes resulted in property damage only and there were no reported fatalities. In terms of vehicle speed, the study

took speed measurements, which measured average and 85th percentile speeds at only slightly higher than the posted speed limit. Additionally, the report found that the site driveway has ample sight distance both for motorists travelling on North Avenue and those entering and exiting the site.

Recommendations of the report include placement of signage and appropriate road markings, maintenance of sight lines, construction of a sidewalk along North Avenue to promote pedestrian access and reduce automobile dependency, and preparation of a transportation demand management plan.

In sum, the Project will have no adverse impact on public safety, nor any significant traffic impacts to the surrounding roadway system.

The Applicant intends to construct the Project in a single phase as soon as possible after approval of the Project. Anticipated impacts of the Project associated with the construction process include erosion and sedimentation, noise, dust, and debris control. Although these impacts will be temporary in nature, mitigation controls will be in place, and best management practices will at all times be observed. Such procedures include the following:

1. Construction sequencing, best management practices for erosion control, equipment and vehicle management, materials storage and use, waste disposal, and spill prevention and response.
2. Routine inspections of Property conditions, as needed, to control dust during construction and to provide watering, as and to the extent required.
3. A more in-depth construction sequencing plan with “Best Management Practices” to assist in control of sedimentation, dust and debris control entitled “Erosion & Sedimentation Control Plan” can be found in the engineering report attached separately to this document.

To ensure that these safeguards are observed, the Applicant intends to file a comprehensive Construction Management Plan (CMP) for review by the Town prior to start of construction.

As noted above, there are no notable historic or archeological features of the Property. Any/all environmental impacts relating to wetlands will be subject to review and approval by the Wakefield Conservation Commission. Moreover, the Project has been designed with energy efficiency in mind, and the increased residential density promotes a more optimal use of land and discourages exurban sprawl.

VI. Requested Waivers of Local Bylaws

In accordance with 760 CMR 56.05(2)(h), the Applicant hereby notifies the Board that waivers are sought from any/all applicable requirements of the Wakefield Zoning Bylaw and all other local bylaws, including, without limitation, each and every of the provisions/bylaws outlined in the chart contained in Tab 18. Pursuant to the Act and 760 CMR 56.05(7), all provisions of the Wakefield Zoning Bylaws and all other local bylaws shall be waived to the extent “required to permit the construction and operation of the Project.”⁷ In accordance with 760 CMR 56.05(7), the within waiver list may be revised and/or updated during the course of the Public Hearing process.

VII. Chapter 40B and Local Housing Needs

Massachusetts General Laws Chapter 40B, §§ 20-23, also known as the Anti-Snob Zoning Act, provides in relevant part that all communities must have a minimum of 10% of their housing

⁷ 760 CMR 56.05(7) specifically provides that “[t]he Applicant may request Waivers, as listed in its application or as may subsequently arise during the hearing, and the Board shall grant such Waivers as are Consistent with Local Needs and are required to permit the construction and operation of the Project. Zoning waivers are required solely from the “as-of-right” requirements of the zoning district where the project site is located; there shall be no requirement to obtain waivers from the special permit requirements of the district.

stock dedicated to low-to-moderate-income housing within the meaning of the Act and the regulations promulgated pursuant thereto. See M.G.L. c. 40B, § 20 and 760 CMR 56.03(3)(a). Based on the most recent Subsidized Housing Inventory (“SHI”), as promulgated by DHCD on December 21, 2020, the stock of housing currently utilized in Wakefield for low to moderate income purposes totals 703 units, which represents only 6.7% of the 10,459 total year-round housing units in Wakefield. See Tab 19.

Under these circumstances, there exists a strong legal presumption that the regional housing need in the Town of Wakefield outweighs all local concerns, including density, massing, design, “neighborhood character”, and the like. In such cases, the municipality generally must approve the Comprehensive Permit and grant the waivers requested by the Applicant. The only permissible conditions that the Board may impose are those that promote local interests relating to health, safety, environmental concerns, or design concerns, and even in these limited circumstances the Board must prove that such concerns outweigh the regional housing need.

Further, in order to deny a Comprehensive Permit application under such circumstances, a municipality must prove that the project will impact municipal services in a manner that presents an “irremediable hazard of gravity that outweighs regional housing needs.” *Wilson St. Trust v. Town of Norwood*, No. 71-06, slip op. at p. 26 (Mass. Housing Appeals Committee, Feb. 13, 1974).

The Applicant proposes and agrees that 25% of the total number of units in the Project (10 units) will be dedicated as affordable units. However, pursuant to DHCD regulations, because the units are rental apartments, all 38 units in the Project will be eligible for inclusion in the Town’s SHI following the approval of the Project. As required by law, these affordable units will be subject to a regulatory agreement, which will ensure that these units remain affordable for as long as the

Project is not in compliance with local zoning requirements. In accordance with DHCD guidelines, the affordable units will be dispersed proportionally throughout the Project and will be indistinguishable from the outside from market-rate units. In accordance with a marketing plan that must be approved by DHCD, the affordable units will be marketed and made available to prospective qualified applicants on a lottery basis.⁸ To the extent allowed by DHCD and the subsidizing agency (MassHousing) pursuant to fair housing laws, the Applicant is willing to agree that local Wakefield residents will be given a local preference in the lottery for the affordable units during the initial rent-up of the Project.

VIII. Other Local Board Permitting

As its name implies, the Board's issuance of a Comprehensive Permit will constitute a "comprehensive" approval under all local bylaws, rules, and regulations, and any other local permit or approval required pursuant thereto will be encompassed by the Board's decision. As such, the only other local board approvals required under Chapter 40B are those required by other provisions of state law that are administered locally. In this instance, as noted above, the Project will be subject to review and approval by the Wakefield Conservation Commission under the Wetlands Protection Act due to the proximity of jurisdictional wetlands resources to the proposed construction and site work.

Following approval, the Applicant will be required to file for issuance of the necessary demolition, building, and other construction-related permits, including review of the Project's stormwater management system.

⁸ Qualified applicants are defined as families or individuals with incomes at not more than 80% of the annual median income for the region, as determined by DHCD.

IX. Additional Information

The applicant reserves the right to provide – and anticipates providing – additional information to the Board during the hearing process. To the extent the Board wishes to request information during that process, the Board should be guided by the submission requirements of the Regulations.

X. Abutters and Notice

Enclosed under Tab 20 is a certified list of abutters from the Town of Wakefield Tax Assessor, which indicates, as of the date indicated thereon, the current owners of all land entitled to written notice of the public hearing with respect to this matter.

Pursuant to the Act and the Regulations thereunder, notice of the public hearing on this Application must be provided by the Board in accordance with M.G.L. c. 40A, § 11, which provides, in pertinent part, as follows:

In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. *“Parties in interest” as used in this chapter shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town.* The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes.

* * *

Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition, the date, time and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in such city or town.

M.G.L. c. 40A, § 11 (emphasis added). It should be noted that the task of issuing such notice must be undertaken by the Board and cannot be delegated to the Applicant. *Planning Bd. of Peabody v. Bd. of Appeals of Peabody*, 358 Mass. 81, 83 (1970).

In accordance with M.G.L. c. 40A, § 11, notice by mail of the public hearing on this Application is required to the following parties:

- The Applicant;
- All direct abutters to the Property;
- All owners of land directly opposite the Property on any public or private street or way;
- All abutters to the direct abutters to the Property whose properties are located within 300 feet of the Property;⁹ and,
- The Planning Boards of the Towns/Cities of Lynnfield, Saugus, Melrose, Stoneham, and Reading.

XI. Filing Fees

The Board's Rules and Regulations impose an advertising fee of \$100.00 for all zoning applications plus \$2.00 per address over 20 for abutters to be notified. Wakefield Tax Assessor's

⁹ It should be noted that under the "abutters to the abutters" provision of M.G.L. c. 40A, § 11, notice is not required to all owners of land whose properties are located within 300 feet of the Property, only those who are abutters to the direct abutters. *Arena v. Williams*, 18 MISC 000028 (MDV), 2019 WL 1320140, at *2 (Mass. Land Ct. Mar. 21, 2019), *aff'd*, 96 Mass. App. Ct. 1116, *rev. denied*, 484 Mass. 1103 (2020).

records indicate that the 300-foot abutters' list encompasses 36 abutters. Therefore, the total advertising fee is \$132.00. Additionally, the Board's Rules require filing fees of \$70.00 per dwelling unit for multifamily residential development. Based on the proposed 38 residential units, this would require a filing fee of \$2,660.00, bringing the total filing fees to \$2,792.00. Although the Board's local rules are subject to waiver under Chapter 40B, enclosed herewith is a check for this filing fee. The Applicant hereby reserves all rights to object to the payment of such fee at the appropriate time and before the appropriate venue, including to the Housing Appeals Committee on the basis of reasonableness. See 760 CMR 56.05(2) (limiting local fees to "a reasonable filing fee . . . to defray the direct costs of processing applications, and taking into consideration the statutory goal of [Chapter 40B] to encourage affordable housing development.").

XII. Conclusion

The Project, as proposed by the Applicant, will be an attractive, well-designed, affordable housing development that will address a long-standing and serious shortage of such rental housing in the Town of Wakefield. The site design and existing conditions afford ample area to accommodate the proposed Project and provide adequate open space. Moreover, the Project has been designed to minimize and mitigate potential impacts to municipal systems and services. The Applicant respectfully submits that the Project will meet a severe regional and local need for affordable housing will also addressing the health, safety, and environmental concerns of Wakefield residents.

Based on the foregoing, the Applicant respectfully requests that the Board open a Public Hearing on the within Application within thirty (30) days of the filing of this Application, as required by 760 CMR 56.05(3). Pursuant to that section, the Board "shall thereafter pursue the

hearing diligently”, which hearing “shall not extend beyond 180 days from the date of opening the hearing”. Pursuant to 760 CMR 56.05(8)(a), the Board’s final Decision on this Application must thereafter be rendered within forty (40) days after the close of the Public Hearing.

Respectfully Submitted,

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cc. Development Team
MassHousing
Department of Housing and Community Development