

TOWN OF STONEHAM

ZONING BOARD OF APPEALS

PETITION OF FELLSWAY DEVELOPMENT, LLC

Comprehensive Permit Application

Pursuant to G.L. c.40B, §§ 21-23

DATE OF DECISION: JUNE 20, 2024

2024 JUN 20 P 7 24

I. THE PROPERTY:

The subject property contains 10.02 acres, more or less, is identified on the current plans as being located at 5 Woodland Road, Stoneham, Massachusetts now known as 10 Executive Drive and 20 Executive Drive, is located within the Town of Stoneham's Medical/Office/Residential Zoning District (the "Property"). The parcels on which the proposed Project is proposed are shown on the Stoneham Assessors' Map 27, Parcels 3 and 3CM. The Property is depicted on a set of plans entitled "The Residences at Spot Pond, 5 Woodland Road, Map 27 Lots 3 & 3CM, Stoneham, MA", prepared by Allen & Major Associates, Inc. and dated November 16, 2023, scale: 1"=40 ft. and last revised May 29, 2024.

II. PROCEDURAL HISTORY:

A. An application for a Comprehensive Permit was submitted to the Town of Stoneham and the Zoning Board of Appeals (the "Board") by the applicant, Fellsway Development, LLC (the "Applicant" or "Developer"), a Massachusetts limited liability company, has an address c/o the Gutierrez Company, of 200 Summit Drive, Burlington, MA on December 19, 2023 (the "Application"). The Applicant originally proposed to raze the existing vacant hospital building at the former Boston Regional Medical Center and some small buildings and construct on the Property three hundred seventy-eight (378) residential apartment units in two buildings, one four and five-story building containing 138 units with a mixture of nine (9) studio, fifty (50) one-bedroom, sixty-eight (68) two-bedroom and eleven (11) three-bedrooms (total bedrooms 228) (Building A) and one five-story building containing 240 units with a mixture of fifteen (15) studio, one hundred nineteen (119) one-bedroom, seventy-eight (78) two-bedroom and twenty-eight (28) three-bedrooms (total bedrooms 360) (Building B), with an associated six hundred seventy-nine (679) parking spaces dispersed in on-site surface parking areas (287), surface parking spaces at the Life Care Center (59), surface parking in a grassed easement area to be converted to a surface parking area (82), spaces below Building B (155), and garage stalls (96) accessed off of an existing site-circulation roadway known as Executive Drive as well as utilities and a stormwater management system, patios,

walkways, landscaping, outdoor common areas, and a pool (the “Original Project”). Preliminary scaled Architectural Drawings of the proposed Buildings and Site were included with the Application as well as an Environmental Impact Analysis, a Traffic Impact Assessment, and a Statement of Impact on Municipal Facilities and Services. Accompanying the Application also was a Memorandum of Agreement dated December 5, 2023 between the Applicant and the Stoneham Select Board in which the Applicant agreed in substance in exchange for a proposed waiver of a perpetual restriction on further low or moderate income housing on the Property to the following: (a) a conveyance by the Applicant to the Town of 1.4 acres of vacant land (Lot M-2) to the Town for municipal use; (b) payment by the Applicant in full of all comprehensive permit filing fees, building permit fees, water and sewer connection fees; and all peer review and project monitoring fees; (c) to provide a local preference when leasing affordable units in conformity with state laws and regulations; (d) payment of the sum of \$200.00 for each approved residential unit to the Stoneham Affordable Housing Trust upon receipt of a certificate of occupancy; (e) removal of restrictions limiting the use of adjacent office condominiums to medical office use only. During the public hearing process the Original Project was amended by the Applicant in response to the Board’s comments, review letters from the Board’s peer review consultants and town officials, Boards and committees, questions and comments from abutters and other interested parties who appeared in person and submitted comments.

B. The Board’s public hearing was advertised in the Stoneham Independent on January 3, 2024 and January 10, 2024. The public hearing was opened on January 18, 2024, continued to February 28, 2024, and was further continued to March 20, 2024, March 27, 2024, May 1, 2024, May 21, 2024, May 30, 2024, and June 6, 2024. On June 6, 2024 the public hearing was closed. The Board deliberated and voted its decision on June 20, 2024.

C. A File Inventory by date is attached as Exhibit A and is incorporated herein.

D. All requested Waivers are listed on Exhibit B and incorporated herein.

E. Throughout the public hearing, the applicant was represented by Charles F. Houghton, Esquire, 271 Main Street, Suite 202, Stoneham, MA 02180.

F. The Applicant provided certain plans, materials, reports and revised plans during the course of the public hearing on the Application. During the public hearing, the Applicant was represented by a representative of The Gutierrez Company, Scott J. Weiss, Vice-President of Development. The Applicant was assisted by its civil engineering and stormwater consultant, Timothy J. Williams, PE and David Robinson, EIT of Allen & Major Associates, Inc; architectural consultants, Cube3 Studio’s Brian O’Connor and Michele Quinn Littlefield; environmental consultant, Goddard Consulting; and traffic consultant, Maximo G. Polanco, PE and John D. Plante PE of Langan of Boston, MA.

G. The Board utilized the services of civil engineering peer reviewers, Susan B. Spratt, PE and Bradley C. McKenzie, PE of McKenzie Engineering Group, Inc.; Jeffrey S. Dirk, PE., PTOE of Vanasse & Associates, Inc. as its traffic peer review consultant; Cliff Boehmer, AIA of Davis Square Architects, Inc. of Somerville, MA as an architectural peer review consultant; and, had the benefit of certain information provided by the Town's Planner, Erin Wortman, DPW Director, Brett Gonsalves and other town officials. The Board was also represented by its Town Counsel, Robert W. Galvin.

H. The Board requested and heard input from Town officials, Boards, committees, commissions, abutters, the non-profit, Friends of the Fells, and other area and town residents throughout the hearing process, including but not limited to the Select Board, Town Administrator, DPW, Planning Board, Police Department, Fire Department, Building Commissioner, Board of Health, and others.

I. Abutters to the Property were present throughout the public hearing process and raised numerous comments regarding the Original Project including, but not limited to: (a) traffic safety concerns on and along Executive Drive and nearby streets and ways; (b) the massing, scale, density and height of the proposed buildings and apartments; (c) buffering to the abutting properties, specifically the residential condominiums and apartments; (d) parking plans to the extent they included the parking in the existing easement area; (e) impacts to schools; (f) the waivers sought from local regulations; (g) impacts to the Middlesex Fells Reservation; and (h) other comments.

J. Based on the reviews by the Board's peer review consultants, questions and comments from the Board, abutters, and other interested persons as well as certain environmental constraints affecting the Property, the Applicant made modifications to the Original Project and presented revised sets of plans on April 30, 2024, May 16, 2024 and the final revision dated May 29, 2024 (the "Revised Project").

K. The following Board members were present for the entire public hearing, Chair Tobin Shulman, Vice-Chair Robert Saltzman, Eric Rubin, Kevin McLaughlin, R. Michael Dufour and Associate Members William Sullivan and Mark Russell.

III. GOVERNING LAW

A. The law governing this Application is the Comprehensive Permit Law, Mass. Gen. L. c. 40B §20-23 (the "Act") and the regulations promulgated by the former Department of Housing and Community Development (DHCD) now known as the Executive Office of Housing and Liveable Communities (EOHLC), 760 CMR 56.00, et seq. (the "Regulations").

B. The Act promotes regional distribution of low- or moderate-income housing by preventing individual cities and towns from using zoning to block construction of such housing. Toward these ends, the purposes of the Act are satisfied if: (a) a town has low- or moderate-income housing in excess of 10 percent of the total number of year-round housing units reported in the latest decennial census; or (b) a town has low or moderate

income housing which is on sites comprising 1.5 percent or more of the town's total land area zoned for residential, commercial, or industrial use; or (c) if the application results in the commencement of low- and moderate-income housing construction on sites comprising more than 0.3 percent of such total area or 10 acres, whichever is larger, in one year.

C. The Regulations expand the conditions for satisfying the Act to include various "safe harbor" opportunities, such as certification of progress under an approved Housing Production Plan ("HPP"), where "progress" means achieving a minimum annual low- or moderate-income housing production threshold established by EOHLC; or increasing the number of low- or moderate-income units by at least 2 percent of the community's year-round housing units.

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

E. If a Town does not have low or moderate income housing in excess of 10% of the housing units reported in the latest decennial census or on sites comprising 1.5% or more of the town's land area zoned for residential, commercial or industrial use, there is a presumption that there is a substantial need in the region for affordable housing that outweighs local concerns. Board of Appeals of Hanover v. Housing Appeals Committee, 363 Mass. 339 (1973). A decision by a local Board to deny a comprehensive permit or grant a permit with conditions may also be consistent with local needs if the town has made recent progress toward meeting its 10% affordable minimum. The regulations define recent progress as creating the number of housing units equal to or greater than 2% of the town's total housing units within the twelve month period prior to the date of the comprehensive permit application. In addition, a decision by the Board to deny a comprehensive permit application or grant a permit with conditions shall be consistent with local needs if the application involves construction of more than 300 housing units in a municipality that has a total number of 7500 or more housing units. 760 CMR 56.00 et seq.

IV. JURISDICTIONAL FINDINGS:

A. The Town of Stoneham (including, as the context in this Decision permits, its Boards, commissions and departments, the "Town") does not meet the statutory minima set forth in Mass. Gen. L. c. 40B § 20 or 760 CMR 56.03(3):

1. According to the EOHLC Subsidized Housing Inventory ("SHI"), as defined in 760 CMR 56.02, as of December 14, 2023, 4.91 percent of the Town's total housing stock is comprised SHI eligible housing. Thus, the Town had not met the 10 percent statutory minimum as of the date of the Board's receipt of the Application.

2. The Board received no evidence that existing affordable housing units are on sites which comprise more than 1.5 percent of the total land area of the Town which is zoned for residential, commercial, or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof). Accordingly, the Board did not exercise the provisions of 760 CMR 56.03(8), which require the Board to provide written notice to the Applicant, with a copy to EOHLC, that it considers that a denial of the permit or the imposition of conditions or requirements would be consistent with local needs, together with the grounds that have been met.

3. The Town either did not invoke or does not qualify for any of the "safe harbor" provisions under 760 CMR 56.03. Most specifically, the Town has an EOHLC-approved HPP, effective February 10, 2020, but the Town has not yet created enough new low- or moderate-income units pursuant to the HPP to qualify for any of the "safe harbor" provisions. Nevertheless, progress is being made in this area.

4. Although pursuant to the Act and Regulations, the Board is empowered to deny the present application, the Act empowers the Board to grant a comprehensive permit that does not otherwise comply with local rules and regulations, including the zoning bylaws, where the Board has concluded that the probable benefits of the approval outweigh the probable negative impacts upon the town and surrounding properties, and where the Board has concluded that there is an unmet local need. Language in both Board of Appeals of Hanover v. Housing Appeals Committee, 363 Mass. 339 (1973) and Wellesley v. Ardmore Apartments Limited Partnership, 436 Mass. 811 (2002) provides strong support for the proposition that the legislature intended to enable a local Board to grant a comprehensive permit even where statutory minima have been met, or, in this case, where the number of units exceeds the large scale project definition in the regulations. The Board notes, however, that the grant of a comprehensive permit where the number of units proposed by the Applicant exceeds the large-scale project limits is a discretionary permit that benefits the applicant and enables the Board to require commensurate public benefits as conditions for the grant of the comprehensive permit. To that end, this decision contains numerous conditions that the BOARD believes mitigate whatever public burdens the Project will impose upon the community. At its meeting on January 18, 2024, the Board voted not to invoke protections pursuant to the Act and Regulations for a large-scale project.

B. Pursuant to the Act and the Regulations, an applicant for a comprehensive permit must fulfill three initial jurisdictional requirements:

- (1) The applicant must qualify as a public agency, a non profit organization, or a limited dividend organization;
- (2) The Project must be fundable by a subsidizing agency under a low and moderate income housing subsidy program; and
- (3) The applicant must "control the site." 760 CMR 31.01(1).

The Board finds that the applicant has provided sufficient information to establish that it will qualify as limited dividend organization and that the project is fundable pursuant to an eligible program of the Massachusetts Housing Finance Agency (“Mass Housing”) and the New England Fund (“NEF”) program of the Federal Home Loan Bank of Boston pursuant to a Project Eligibility Letter from MassHousing dated November 8, 2023. The Board further acknowledges that the applicant has control of the site and has provided a Deed to the Property and letters of authority.

V. REQUESTED WAIVERS

The Applicant submitted a list of requested waivers to the Board in a document entitled “Waiver Requests – Revised through November 15, 2023”.

As set forth in the findings of the Board and the description of the Project set forth below, the Board finds that in view of the local and regional need for affordable housing, the use is an appropriate one for the site and that the proposed project addresses a need in the town for affordable housing. The requested waivers set forth on Exhibit B represent minimal deviations from the requirements of the zoning bylaw that are more than offset by the Project’s ability to address this community need as well as the Project’s positive design features and the Applicant’s agreement to provide the mitigation required by this comprehensive permit. In addition, the Board finds that the Project has utilized well the features of the site so that the principal buildings and accessory parking areas are integrated well with both onsite and offsite features. Accordingly, the Board grants the requested waivers, subject to the conditions set forth in this Comprehensive Permit, and also grants waivers, to the extent necessary, and from any applicable provisions of the subdivision control law.

The Board has granted only those waivers from the Stoneham Town Code, Zoning Bylaw ("Zoning Bylaw") and other local bylaws and regulations deemed necessary for the Revised Project to proceed. The Revised Project shall comply with all local regulations of the Town unless specifically waived herein. No waivers are granted from requirements that are beyond the purview of the Act, and no waivers of any requirements otherwise within the Board's jurisdiction under the Act have been granted except for those specifically granted by the Board in Exhibit B. To the extent the Approved Plans reflect a waiver not expressly granted, the terms and conditions of Exhibit B shall govern. There shall be no waiver of permit or inspectional fees, water and sewer fees, betterments or assessments. Any subsequent revision to the Approved Plans that requires additional or more expansive waivers must be approved by the Board in accordance with 760 CMR 56.05(11).

VI. PROJECT DESCRIPTION AND IMPACTS

A. The Revised Project

The Revised Project, as revised, consists of three hundred seventy-eight (378) residential apartment units in two buildings, one four and five-story building containing 138 units with a mixture of nine (9) studio, fifty (50) one-bedroom, sixty-eight (68) two-bedroom and eleven (11) three-bedrooms (total bedrooms 228) (Building A) and one five-story building containing 240 units with a mixture of fifteen (15) studio, one hundred nineteen (119) one-bedroom, seventy-eight (78) two-bedroom and twenty-eight (28) three-bedrooms (total bedrooms 360) (Building B). Twenty-five percent (25%) of the units shall be Affordable Units (as subsequently defined herein) and the Affordable Units will be spread throughout the buildings and proportionately across the unit types and will be indistinguishable from the market rate units.

The general site layout for the Revised Project is shown on a plan entitled “The Residences at Spot Pond, 5 Woodland Road, Map 27 Lots 3 & 3CM, Stoneham, MA”, prepared by Allen & Major Associates, Inc. and dated November 16, 2023, scale: 1”=40 ft. and last revised May 29, 2024. The typical design elevations and layouts for the buildings as well as preliminary materials specifications are shown on a series of plans entitled “The Residences at Spot Pond” prepared by Cube 3 Studio dated November 16, 2023 as supplemented by Plan and Elevation Updates, prepared by Cube 3 Studio, revised to May 20, 2024.

B. Project Impacts

1. Density

The proposed Project increases the allowed residential density within the Medical/Office/Residential District by 378 dwelling units. While multifamily use is allowed within the zoning district, it is capped in the zoning to a maximum of 310 units and a maximum of thirty (30) units per acre. The Revised Project proposes to increase the number of garden multifamily dwelling units by 378 at a density of 38 units per acre. The Project consists of two, four-six story buildings with Building A to the west having 143 units and Building B to the east and including 235 units. As a result of the proposed Density, the Board requested that the Project be reviewed by independent peer review consultants in the fields of civil engineering, traffic engineering and design review/architecture to understand project impacts to the abutting use on the same property, abutting residential developments, abutting non-residential uses, the roadway network in proximity to the Project, and the Middlesex Fells Reservation. Their peer review comment letters are included in the File Inventory. As stated by the Board’s design review peer engineer, provided traffic and civil engineering issues can be resolved, the site is appropriate for dense, multi-family development. Although largely dependent on vehicle access, the site has immediate MBTAS bus access. The site also has excellent access to outdoor amenities within the Middlesex Fells Reservation and is located short distances from shopping, schools, public safety facilities and houses of worship.

2. Traffic

The Project is proposed to replace the existing hospital, power plant and church buildings as part of the former Boston Regional Medical Center. The Property was previously approved for a 225,000 square foot office facility and alternatively, a 150,000 square foot life science research and development/manufacturing facility. The traffic analysis confirmed by the Town's traffic consultant, Vanasse & Associates, Inc. indicated that the Project, as conditioned, would result in significantly less traffic than the reuse of the facility as a hospital or office facility and about the same or less than the R&D facility. Initial peer review included discussion of MBTA bus access, review of traffic impacts on and off site, and a review of parking demand data available from the Institute of Transportation Engineers (ITE)¹ for multifamily residential communities in a similar setting and concerned in part the proposed construction of the 82 space surface parking lot that is proposed to the east of the Life Care Center of Stoneham and recommended reserving but not constructing these parking spaces to reduce the initially constructed parking supply to 597 parking spaces, or a parking ratio of 1.58 parking spaces per unit, which continues to exceed the ITE average peak parking demand ratio for a multifamily residential development. Nonetheless, the Board requested the Applicant meet the required parking ratio of 1.7 parking spaces per unit per the Zoning Bylaw.

3. Drainage and Utilities.

The existing Property has no known stormwater quality treatment systems and limited stormwater controls. While the Revised Project consists of an increase to total impervious site area, it also includes significant stormwater upgrades including stormwater quality treatment and peak drainage flow controls. In connection with the proposed Project and its stormwater management design, site improvements, and utilities, the Board engaged a civil engineering firm, McKenzie Engineering Group, Inc., to evaluate the proposed design and impacts in order to determine if the proposed Project complied with local and state laws and regulations and good engineering practices and whether the project will adversely impact any abutting properties and/or the Middlesex Fells Reservation.

4. Fiscal Impacts

In today's dollars, the Fiscal Impact Analysis for the proposed projects gross tax revenue from the Project to approximately \$1,160,000 annually and projects estimated municipal expenses, inclusive of emergency services and educations costs to be between about \$670,000 and \$760,000 annually for net positive fiscal benefit to the Town of between approximately \$395,000 and \$490,000 annually.

5. Middlesex Fells Reservation.

The Board was informed early in the process of potential adverse impacts of the proposed Project on the Middlesex Fells Reservation (the “Fells”). The Board shares the concern that Project design should comprehensively safeguard the natural resources of the Fells that would allow current and future residents, and the general public, to sustainably enjoy and care for the park. The Applicant has already asked the Town of Stoneham and the Town of Stoneham has applied to the Massachusetts Water Resource Authority (MWRA) for public access to the Middlesex Fells Reservation near the proposed Project. The Applicant has reduced on-site parking and also provided 16 parking spaces that may be used by the public to facilitate access to the Fells. The Applicant has also amended its proposal to encourage and improve pedestrian safety and the use of bicycles.

VII. FINDINGS

After hearing and carefully considering the technical review provided by Town Departments and the Town’s professional consultants as well as concerns raised by abutters and others during the course of the public hearing; and reviewing the documents and other evidence submitted both in favor of and in opposition of this project, the Board makes the following findings:

A. Density – Housing density is a legitimate planning, health and safety concern to be addressed by a Board of Appeals in the context of a review of a comprehensive permit application. Density of site development affects a variety of other matters such as water supply, sewage disposal, stormwater drainage, fire protection, traffic circulation and availability of open space, all of which are relevant to comprehensive permit proceedings. Although the proposed Project increases density, the Board is satisfied that the Applicant has carefully planned its development to take advantage of the surrounding open space that while technically not a part of the site, will contribute to the health and well being of Project residents. In addition, providing access and connection to the neighboring Fells open space area supports and encourages the availability of this open space to residents and others.

B. Traffic – The Board finds that the Applicant has adequately reviewed and addressed traffic concerns raised in the process of the public hearings and that the proposed Project will adequately provide for traffic circulation, sufficient parking meeting the Zoning Bylaw requirements, and in addition provide substantial mitigation concerning existing offsite conditions through reduced traffic volume that will be only minimally impacted by the increased number of vehicle trips from the proposed Project. The Board finds that the proposed Project will not, when conforming to the conditions of this decision, be a threat to public health and safety of the occupants of the Project, the neighborhood or the Town.

C. Stormwater Management. The Revised Project, consistent with the Board's civil engineering review comments, will result in a decrease in peak rates of stormwater runoff from the Property, increased infiltration to groundwater, and improved stormwater quality. The Board will require the Applicant and its engineering consultants to fully comply with the requirements of the Board's civil engineering peer review consultant, McKenzie Engineering Group, Inc. as set forth in their review letters and in their June 4, 2024 proposed Conditions of Approval which is incorporated herein by reference. The Board is satisfied, and hereby finds, that the Applicant's commitment to comply with DEP's Stormwater Management Policy and Stoneham Stormwater Management Rules and Regulations, and the condition in this decision mandating such compliance, will adequately address onsite drainage issues.

D. Project Impacts including to Middlesex Fells Reservation. The Revised Project includes multiple features recommended by the non-profit, advocacy group, Friends of the Fells, that analyzed the development plan for the proposed Project. The Town has already requested a publicly accessible trail head adjoining the Project to provide safe access to the Fells to new and existing residents, and to promote sustainable use of the Fells. As shown on the Revised Plans, the Applicant has proposed 16 public parking spaces that will be available for parking associated with the Fells that will be identified on signage as being public parking. The Applicant has also reduced the parking associated with the proposed Project and made modifications to the site and provided areas to encourage pedestrian and bicycle use of its site and the Fells. The landscape plans contemplate responsibly sourced native plants in landscaping and ongoing maintenance to prevent ongoing landscaping and maintenance from impacting the surrounding forest and call for invasive plant management. Lighting impacts from the proposed Project are appropriately mitigated.

E. The Board finds that the additional costs associated with providing municipal and other services to the site are offset by the anticipated increase in tax revenues. Accordingly, the Board finds that there will be no negative financial impact associated with the Project and that given the magnitude of mitigation measures to which the Applicant has committed, the financial advantages to the Town far outweigh any additional costs of providing services.

F. As conditioned by this decision, a 378 residential apartment unit Project on the site is supported by the evidence, and, as conditioned below:

- a. will not be rendered uneconomic by the terms and conditions of this Decision;
- b. will represent a reasonable balance of the regional need for low and moderate income housing against important local planning and environmental concerns;
- c. will be consistent with local needs within the meaning of Massachusetts G.L., c. 40B, § 20.

G. The Board specifically finds that there is a need for affordable housing in the Town of Stoneham and that the Project addresses that need for affordable housing.

H. The Board specifically finds that the Project site is suitable for the proposed development and that any negative impacts can be mitigated by the conditions imposed by this decision.

I. In accordance with the Board's regulations, the Board determined that it required technical advice unavailable from municipal employees. As a result, the Board employed outside consultants, McKenzie Engineering Group, Inc., Vanasse & Associates, Inc. and Davis Square Architects, Inc. to assist the Board in plan review, impact analysis, market analysis, project feasibility and other technical assistance necessary to insure compliance with relevant laws and regulations prior to action by the Board. In addition, the Board utilized Town Counsel, Robert W. Galvin for necessary legal assistance including, but not limited to, analyzing the Application and providing legal counsel for the decision. Other than relating to Town Counsel, all consultants were selected and retained by the Board, with the actual and reasonable costs for their services paid for by the Applicant.

J. Although the proposed Project does not comply with all the zoning bylaw provisions, in order to fulfill the purpose and intent of this decision, the Board waives all local rules and regulations to the extent necessary to complete this Project. Without limitation, the Board specifically grants the waivers requested by the Applicant and set forth in Section V hereof.

VIII. DECISION

The Board hereby approves with the conditions set forth below a Comprehensive Permit for the Project depicted on the plans and materials identified in the record, specifically including Comprehensive Permit Plans (the "Revised Plans") dated November 16, 2023 with a last revision date of May 29, 2024 and consisting of not more than three hundred seventy-eight (378) units of rental housing, twenty-five percent 25% of which shall be Affordable Units as defined herein, pursuant to the terms, conditions and obligations imposed by G.L. 40B, s.20-23. In approving this permit, the Board has concluded that with the conditions imposed, the proposed project is consistent with local needs and will not be rendered uneconomic.

The Record before the Board of Appeals upon which this Decision is based includes all materials submitted by the Applicant, its consultants, Town officials, boards and committees, the public including abutters and other interested parties, the Board's meeting minutes, the Board's consultants, and all other information received by the Board while the public hearing was open. This information is listed on a File Inventory which is incorporated herein by reference and attached herewith as Exhibit A.

IX. CONDITIONS FOR THE RESIDENCES AT SPOT POND COMPREHENSIVE PERMIT

A. General Conditions

1. This comprehensive permit is issued for a development to be known as “The Residences at Spot Pond” (“the Project”).
2. This permit is issued to and only to Fellsway Development, LLC (“the Applicant”) or an affiliate of the Applicant with the written consent of the Board. With the approval of the Board, rights under this permit may be exercised by a successor or assignee of the Applicant.
3. This comprehensive permit is based upon a project eligibility letter issued to the Applicant from MassHousing dated November 8, 2023 incorporated herein by reference. The terms and restrictions stated in that letter, as may be amended from time to time, are incorporated into this comprehensive permit as minimum conditions, compliance with which shall be conditions precedent. No grading, land disturbance, issuance of any building permit or construction of any structure or infrastructure shall commence until the terms of said project eligibility letter have been complied with in full.
4. The Applicant shall fully comply with the terms and conditions of a Memorandum of Agreement dated December 5, 2023 with the Town of Stoneham acting by and through its Select Board including those obligations which the Applicant has requested be incorporated into this Decision as conditions.
5. The Project will have a maximum number of 378 residential apartment units in two buildings, one four and five-story building containing 138 units with a mixture of nine (9) studio, fifty (50) one-bedroom, sixty-eight (68) two-bedroom and eleven (11) three-bedrooms (total bedrooms 228) (Building A) and one five-story building containing 240 units with a mixture of fifteen (15) studio, one hundred nineteen (119) one-bedroom, seventy-eight (78) two-bedroom and twenty-eight (28) three-bedrooms (total bedrooms 360) (Building B), with an associated 643 parking spaces dispersed as shown on the Revised Plans in on-site surface parking areas, surface parking spaces at the Life Care Center, spaces below Building B, and garage stalls accessed off of an existing site-circulation roadway known as Executive Drive as well as utilities and a stormwater management system, patios, walkways, landscaping, outdoor common areas, and a pool. Twenty-five percent (25%) of the units shall be Affordable Units and the Affordable Units will be spread throughout the buildings and proportionately across the unit types and will be indistinguishable from the market rate units. The leases for the rental units shall prohibit the use of any den in those units as a bedroom on a regular basis by a resident or occupant of the unit.
6. The permit granted by this decision shall lapse and become void and shall be considered without force or effect if the applicant is not awarded monies pursuant to the applicable financing program of the Massachusetts Housing Finance Agency (“Mass Housing”) the New England Fund (“NEF”) Program of the Federal Home Loan Bank of Boston or another qualifying subsidy program.

7. No grading, land disturbance, or construction shall commence until the applicant or EOHLC has supplied the Board with written evidence indicating availability of qualifying program funds or conventional financing to complete the Project. The permit granted by this decision shall lapse and become void and shall be considered without force or effect if the applicant or EOHLC does not supply the Board with such written correspondence.
8. This decision shall be recorded at The Middlesex County Registry of Deeds. This decision shall become effective upon recording. Proof of recording shall be forwarded to the Board and the Building Commissioner prior to issuance of a building permit or the start of site clearing, demolition, or other work or construction.
9. The Applicant shall comply with the State Building Code and shall pay all fees of the Town of Stoneham imposed generally in respect to construction projects and for the purposes of monitoring compliance of the Project's building construction and occupancy in accordance with this Comprehensive Permit.
10. The Applicant shall copy the Board and the Building Commissioner on all testing results, official filings and other permits issued for the Project, including, but not limited to, any orders of condition issued by the Stoneham Conservation Commission.
11. All apartment units proposed as part of this Application, including both market-rate and Affordable Units, shall be evenly distributed throughout the Project and shall have the same exterior appearance and construction quality and shall be built in conformity to the basic preliminary outline construction specifications and renderings submitted to the EOHLC as part of the Project Eligibility Letter and the Application for a Comprehensive Permit to the Board.
12. The Applicant shall allow the Building Commissioner, members of the Board and Town staff to enter and inspect the Project at will during construction upon reasonable notice to the Applicant.
13. The Applicant shall obtain temporary easements or written permission from any abutting property owner if, during the course of construction, it becomes necessary to enter upon abutting land for construction or planting.
14. Each condition in this Decision shall run with the land and shall, in accordance with its terms, be applicable to and binding on the Applicant and the Applicant's successors and assigns.
15. This Decision permits the construction, use, and occupancy of 378 residential apartment units on the Site. The construction and occupancy of the Project shall be in substantial conformity with the Revised Plans and this Decision, and there shall be no further division or subdivision of the Site, or the creation of additional housing units or any other structures or infrastructure except that which is shown on the Revised Plan without further approval of the Board in the form of an amendment to this Decision and pursuant to statutory requirements applicable at that time and in accordance with the terms and conditions of this Decision

16. To the extent applicable, the Project shall comply with all rules, regulations, filing and permit requirements and certifications required by the regulations governing the Massachusetts Environmental Policy Act (MEPA), compliance with which shall be a condition precedent to the commencement of work authorized under this comprehensive permit and no grading, land disturbance, issuance of any building permit or construction of any structure or infrastructure shall commence until the requirements of MEPA have been complied with in full.

17. To the extent applicable, the Project shall comply with all rules, regulations, filing and permit requirements and certifications required by regulations issued pursuant to the Massachusetts Wetlands Protection Act and the Massachusetts Endangered Species Act (MESA), compliance with which shall be a condition precedent to the commencement of work authorized by this Comprehensive Permit and no grading, land disturbance, issuance of any building permit or construction of any structure or infrastructure shall commence until the requirements of both Acts have been complied with in full.

18. To the extent applicable, the Project shall comply, in all respects, with the rules, regulations, filing and permit requirements and certifications of the Department of Environmental Protection (DEP), compliance with which shall be a condition precedent to the commencement of work authorized by this Comprehensive Permit and no grading, land disturbance, issuance of any building permit or construction of any structure or infrastructure shall commence until the requirements of DEP have been complied with in full.

19. Prior to the issuance of any building permit the Applicant shall:

a. Deliver to the Board a certified copy of the financing contract between Applicant and the federal or state agency or conventional financing commitment providing the funding for construction of low or moderate income housing required by the Act for a Comprehensive Permit for the Site;

b. Pay all fees and expenses to the Town of Stoneham imposed generally in respect to reviewing the Application and preliminary and final plans by the Zoning Board of Appeals associated with this Comprehensive Permit.

c. Deliver to the Building Commissioner with a copy to the Board final architectural drawings for all buildings shown on the Plan providing a scaled depiction of the front, rear and side elevations, signed by an architect registered in the Commonwealth of Massachusetts.

d. Deliver to the Board full and detailed landscaping plans prepared by a Landscape Architect registered in the Commonwealth of Massachusetts that show suitable on-site landscaping and screening, shade trees on streets as well as the type and number, size and location of all proposed landscaping materials.

e. Deliver to the Board and Building Commissioner final and detailed utilities plans and profiles including properly labeled drainage components and all site

utilities; electric, gas, water supply lines, and sewer lines and dwelling unit connections thereto indicating that all utilities servicing this project shall be underground within the Locus of the project and to the detail required to obtain a building permit in accordance with the State Building Code.

f. Deliver to the Board a written submission describing all easements and covenants affecting the use of the subject site, referring to such covenants and locating such easements on a site plan. The Applicant also shall submit any written or recorded instruments granting or agreeing to such easements and covenants.

20. Prior to the occupancy or use of any building constituting a part of the Project, the Applicant shall submit to the Building Commissioner and any Board engineering peer review consultant "As Built Plans" showing all pavement, buildings, drainage structures, and other infrastructure as they exist on the Site, above and below grade, including appropriate grades and elevations. The plans shall be signed by a registered land surveyor or civil engineer, certifying that the Project as built conforms and complies with the conditions of this Comprehensive Permit. The As-Built Plans shall show the interim status of the site if occupancy occurs in phases.

21. Prior to the occupancy or use of any building constituting the Project, the Applicant shall submit to the Board and the Town Engineer accurate as-built utilities plans and profiles, showing actual in-ground installation of all utilities, copies of which shall be submitted to the Stoneham Department of Public Works after completion of construction. The as-built plans shall show the interim status of the site if occupancy occurs in phases.

22. The Applicant shall comply with all local and state laws and regulations concerning the abatement, remediation, demolition, and removal of the existing structures on the Property. The Applicant shall obtain all necessary permits as required prior to demolition and shall coordinate demolition and removal activities with the Building Inspector and Fire Department as required. Anything herein to the contrary, this decision shall authorize the issuance of demolition and building permits contemporaneously all in compliance with state law and regulations.

23. The Board shall appoint a Construction Monitor that shall monitor the start and progress construction of the project at the cost and expense of the Applicant.

B. Site Development/Construction Conditions

1. The Applicant shall ensure safe and convenient vehicular access to the Site during the entire duration of the construction of the Project.

2. The Applicant shall submit a proposed demolition plan and construction schedule to the Board prior to the start of demolition and construction and provide regular reports as appropriate or upon request by the Town with copies to the architect designated by the Building Inspector, if applicable, to review project status. The existing hospital building shall not be imploded during demolition without further approval of the Board.
3. The Applicant shall forward final architectural plans to the Board at the time of applying for building permits. All construction shall be inspected by the Building Department and shall be in compliance with all Massachusetts State Building Code requirements.
4. The Applicant shall be responsible to ensure that nuisance conditions do not exist in and around the Site during the construction operations. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area and to maintain security at the Project site during construction.
5. Hours - The hours of operation for any construction activities on-Site shall be between 7:00 am and 7:00 p.m., Monday through Friday, 8:00 am and 5:00 p.m. on Saturdays. No work shall be allowed on-Site on Sundays or on Holidays recognized by the Commonwealth of Massachusetts. The restrictions herein shall not apply to work within buildings so long as it does not cause a nuisance as determined by the Building Department. These limits shall not apply in the event any public agency requires emergency work to remediate/mitigate a hazardous situation.
6. Noise - The Applicant shall implement measures to ensure that noise from Project construction activities do not exceed acceptable levels, as set forth by Federal and State regulatory agencies. The Applicant shall cease any excessively loud activities when directed by the Building Commissioner.
7. Roads - The Applicant is responsible for maintaining, repairing and sweeping the roadways, removal of snow, and sanding of the internal walkways and roadways during construction.
8. Utilities - Utilities, including but not necessarily limited to electric, cable and telephone, shall be located underground. A final utility plan approved by the applicable public utilities shall be submitted to the Board.
9. Unless otherwise approved by the Building Inspector, no building areas shall be left in an open, unstabilized condition longer than sixty (60) days. Temporary stabilization shall be accomplished by hay bales, hay coverings or matting. Final stabilization shall be accomplished by loaming and seeding exposed areas. At such times as any building remains in an open or unstable condition, the Applicant shall provide additional site security as needed.
10. Construction vehicles shall be parked on the Site and not at any time on public roads.

11. All public ways shall be maintained and kept free from construction debris.
12. The Applicant and its contractors, employees and agents shall perform cleanup of construction debris, including soil caused by Site construction activity, on adjacent public streets and within 100 yards from the entrance to the Project, as needed.
13. The Applicant shall monitor damage to public streets and shall promptly repair any damage to public infrastructure caused by Site construction activities caused by the Applicant's contractors, employees or agents.
14. In the event of blasting during construction, the Applicant's blasting operator shall provide seven days advance notice of the commencement of blasting operations by certified mail to those property owners entitled to a pre-blast inspection pursuant to 527 CMR 1.00 et seq. Copies of said mailing shall be furnished to the Board and the Stoneham Fire Department. Copies of the blasting monitoring reports, noting any vibrations in excess of that allowable by regulation, shall be mailed to the above-referenced property owners, the Board of Appeals and the Stoneham Fire Department at the termination of blasting operations. The Blasting Operator shall provide notice to the Board of Appeals and the Stoneham Fire Department of any reported damage to real property.
15. No vehicle associated with the construction of the Project shall remain standing or idling on adjacent public streets prior to the designated construction hours.
16. The Applicant shall construct a six foot (6') temporary construction fence around the entire site prior to the commencement of construction activities. The fence shall remain in place until its removal is authorized by the Building Commissioner.

C. Legal Requirements

1. The Applicant shall be bound by all conditions and requirements set forth in this Comprehensive Permit.
2. The internal roadways, utilities, drainage systems, wastewater collection, and all other infrastructure shown in the Approved Plan shall remain private and the Town of Stoneham shall not have, now or ever, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal and trash collection.
3. The address of the proposed project shall be Ten (10) Executive Drive, Stoneham, Massachusetts for building A and Twenty (20) Executive Drive, Stoneham, Massachusetts for Building B.

D. Traffic, Safety and Other Conditions

1. On-site traffic signage shall be consistent with the requirements of the current

edition of the Manual for Uniform Traffic Control Devices (MUTCD).

2. Appropriate driveways, sidewalks and curbing, sufficient for the safe separation of pedestrians from moving vehicles, shall be provided throughout the Site as shown on the Plans to allow safe vehicular and pedestrian access within the Site and between the proposed buildings.
3. Fire protection methods and systems shall meet all State Fire Code requirements and be approved by the Stoneham Fire Chief or his designee.
4. Trash pickup shall be limited to between 7:00 am and 7:00 p.m., Monday through Friday, 8:00 am and 5:00 p.m. on Saturdays.
5. In support of the Town's planning, pedestrian accessibility and safety efforts, the Applicant shall provide the sum of One Hundred Thousand and 00/100 (\$100,000.00) Dollars to the Town to be at the discretion of the Board. Fifty Thousand and 00/100 (\$50,000) Dollars will be provided prior to the issuance of any building permit for new construction on the site and the remaining Fifty Thousand and 00/100 (\$50,000) Dollars shall be provided upon the issuance of any Certificate of Occupancy for the project.
6. A Transportation Demand Management (TDM) program shall be implemented as part of the building operations and management, inclusive of the following elements:
 - a. A transportation coordinator shall be assigned to coordinate the TDM program for the project (who may also have other responsibilities);
 - b. Information regarding public transportation services shall be made available to residents including maps, schedules and fare information;
 - c. A "welcome packet" shall be provided to new residents including the name and contact information for the transportation coordinator and detailing available public transportation services, bicycle and walking alternatives, and other commuting options;
 - d. The new resident welcome packet shall also detail work-at-home accommodations available within the common areas;
 - e. The Applicant shall make best efforts to coordinate with a carshare provider to locate two (2) carshare vehicles at the project site for use by residents of the project; and
 - f. A transit screen or other equivalent display shall be provided in both building lobbies to display real-time traffic and bus location information.

E. Affordability Requirements

1. Subject to the availability of funding, 25% of the units within the Project shall be made available for rent to eligible households whose annual income may not exceed 80%

of area median income (AMI), adjusted for household size, as determined by the United States Department of Housing and Urban Development (the “Affordable Units”), and, subject to approval by EOHLC.

2. Because of the acute need for additional affordable housing in Stoneham, the Applicant shall work diligently with the Town of Stoneham to provide seventy percent (70%) local preference to those who qualify, as approved by EOHLC.
3. The Applicant shall meet the requirements of the Americans with Disabilities Act and the requirements of the Massachusetts Architectural Access Board.
4. Perpetual Affordability Restriction. Prior to the issuance of any building permits, a Regulatory Agreement shall be executed and recorded with evidence of recording provided to the Board. The Regulatory Agreement shall require that the Affordable Units in the Project will be rented to income qualifying individuals or households in perpetuity in accordance with this Decision.
5. Regulatory Agreement. The qualified entity must execute a Regulatory Agreement with the subsidizing agencies, and submit copies of said agreement to the Town of Stoneham Department of Planning and Economic Development and the Board. In the event that MassHousing does not serve as the subsidizing agency for the Project, the Applicant will execute a Regulatory Agreement with the Town of Stoneham substantially the same as the form used by MassHousing. This Regulatory Agreement shall also contain provisions governing the protection and administration of the Affordable Units covered by this Decision.
6. Monitoring Services Agreement. Unless responsibility for monitoring the Project is assumed by Mass Housing, prior to obtaining any occupancy permits for the Project, the Applicant shall submit a copy of a Monitoring Services Agreement to the Board for its approval prior to execution. A copy of the fully executed Monitoring Services Agreement shall be provided to the Board. A Monitoring Agent, to be approved by the Board, shall monitor the compliance of the Project with the Affordability Requirement and the compliance of the Applicant with the Limited Dividend Requirements established by the subsidy agency and this Decision.
7. Audit Requirements. To ensure compliance with the Regulatory Agreement and the requirements of the Comprehensive Permit, the Applicant shall, concurrent with the requirement to provide an annual audit to MHFA, provide a copy of its annual audit to the Board and the Assessors and, if requested, to an independent auditor to be selected by the Board. The Town and the Board shall have a right to conduct an independent audit of the Project on an annual basis to insure compliance with profit limitations imposed by applicable law and/or regulation. The Applicant shall make its books and records available to the independent auditor and shall cooperate fully with the independent auditor’s reasonable request for information. In addition, the Applicant shall submit a sworn affidavit certifying that the requirements of the Regulatory Agreement and this Decision have been complied with. All audit and accounting fees incurred by the Board and/or the Town of Stoneham in connection with this condition and the audit requirements

for the Project, shall be borne by the Applicant.

F. Surety and Covenants

1. Prior to the issuance of any building permit or the commencement of construction of the Project, the Applicant shall provide to the Board evidence of the -surety required to be provided to MassHousing for site drainage and utility improvements, including the installation of drainage and other common facilities (e.g. water and sewer) shown on the final Project Plans required pursuant to this Decision. The sum of any such security held under this paragraph shall be acceptable to the Stoneham Department of Public Works and shall bear a direct and reasonable relationship to the expected cost, including the effects of inflation, necessary to complete the subject work, plus an additional amount of fifteen percent (15%) of such estimated costs. Such amount or amounts shall from time to time be reduced by the Board upon the Applicant's written request, duly supported, so that the amount secured continues to reflect the actual expected cost of work remaining to be completed.

G. Drainage Conditions

1. On site stormwater disposal and management shall conform in all respects to the Massachusetts Department of Environmental Protection Stormwater Management Program and all applicable provisions of DEP's Stormwater Management Policy and the Town of Stoneham's Stormwater Management Rules and Regulations, whichever is the most restrictive and protective of the environment and abutting properties. A final drainage plan certified by an engineer licensed in the Commonwealth of Massachusetts shall be submitted to the Board prior to the issuance of any building permit. The plans shall contain certification by the engineer that the stormwater disposal and management system shall meet all requirements of DEP's Stormwater Management Policy and Town of Stoneham's Stormwater Management Rules and Regulations. This decision shall function as the Board's approval of the Project under the Town of Stoneham's Stormwater Management Rules and Regulations.

2. The Applicant or its assigns, as allowed by this Decision, shall maintain and repair the drainage structures and stormwater management system on the Site as shown on the Plans. The stormwater management system includes, but is not necessarily limited to, catch basins, detention basins, infiltration systems, water quality units, and conveyance systems. A plan for the maintenance of the stormwater management system substantially in conformance to that provided to the Board by the Applicant, shall be submitted prior to issuance of any building permit. In the event that the Town or its engineering consultant determines at any time that the stormwater management system on the site is not being properly maintained or is in need of repair, the Town or its engineering consultant shall provide notice to the Applicant or the Applicant's successor in interest. If the necessary work has not been completed within 30 days of the date of such notice, the Town may, but shall not be required, to undertake the necessary maintenance and/or repairs and the Applicant and its successors and assigns hereby

agree to promptly reimburse the Town for any and all costs associated with these repairs.

3. The Applicant shall comply with the “Conditions of Approval” set forth in a Letter from Susan Spratt, PE of McKenzie Engineering Group, Inc., dated June 4, 2024 which is incorporated herein by reference.

IX. AMENDMENTS AND MODIFICATIONS

1. In the event the Applicant seeks any changes in the Comprehensive Permit after this decision is final, whether deemed by the Board of Appeals to be a non-substantial changes or a substantial change in the Project as herein defined; any such change must be presented to the Board for approval and for the modification of this decision. “Substantial change” for the purposes of this paragraph shall include all matters defined as substantial changes in 760 CMR 56.07(4) and 760 CMR 56.05(11) Any substantial changes or modifications to this Comprehensive Permit shall be made only upon written request and upon the holding of a public hearing after which the Board of Appeals may approve or disapprove the requested modifications or amendments to this decision, in accordance with the provisions of G.L. c. 40B §21 and the provisions of 760 CMR 56.05(11). The Board will determine whether additional input is needed from other Boards and officials in the event of such requested substantial change and will then determine whether the change or requested relief is to be approved and the decision amended accordingly. Minor changes to the Project during construction may be made after consultation with the building inspector as required by the building code and state law.

X. MISCELLANEOUS

1. Expiration date. If construction authorized by this permit does not proceed within 4 years of the date on which the permit becomes final, the permit shall lapse, provided, however, the Board may grant additional extension(s), at the Board’s discretion. The permit shall become final on the date that the written decision is certified with no appeal by the Town Clerk, that no appeal is filed. Otherwise, it shall become final on the date the last appeal is decided or otherwise disposed of.

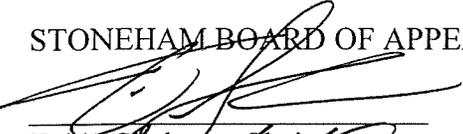
2. Notice to Board. At least 14 days prior to the start of construction, the Applicant shall provide written notice to the Board and all parties in interest, of the anticipated construction start date and the anticipated construction schedule.

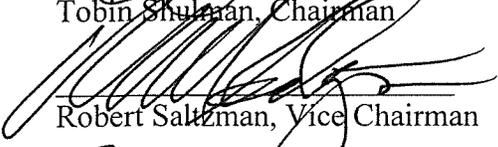
3. Fees Related to Implementation of Decision. All fees reasonably required to review, implement and enforce the terms of this Decision and its conditions, including accounting, engineering or architectural fees outside of consultants retained by the Board, shall be borne by Applicant.

XI. CONCLUSION

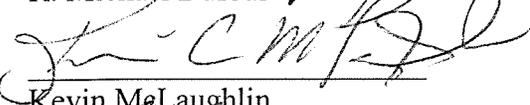
The Application for a Comprehensive Permit for the Project is granted as conditioned by the findings, conclusions, conditions, requirements and statements contained throughout this Decision read in its entirety.

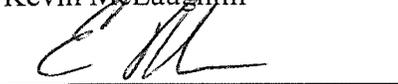
STONEHAM BOARD OF APPEALS


Tobin Shulman, Chairman


Robert Saltzman, Vice Chairman


R. Michael Dufour


Kevin McLaughlin


Eric Rubin

Filed with the Town Clerk on June 20, 2024.


Town Clerk

NOTICE: Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Stoneham Town Clerk, Town Hall, 35 Central Street, Stoneham, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23,

within 20 days after the filing of this notice in the Office of the Town Clerk.

EXHIBIT A: File Inventory

Comprehensive Permit Decision Residences at Spot Pond, formerly 5 Woodland Road, Stoneham now known as 10 & 20 Executive Drive, Stoneham

N.B. Although care has been taken to ensure all documents received in the course of this public hearing are included on this list, this Exhibit A is not represented to include all documentation, communications, or information submitted in the course of the public hearing, but to serve as a convenient reference.

ORIGINAL APPLICATION:

12 19 23 **Original Application Packet**

Cover letter by Attorney Charles Houghton date December 19, 2023 making the formal application request under MGL c. 40B, §§ 20-23, stamped by the Stoneham Zoning Board of Appeals and the Stoneham Town Clerk on December 19, 2023, including the following documentation:

1. Comprehensive Permit Application by Fellsway Development LLC by its manager the Gutierrez Company 200 Summit Drive, Burlington, MA 01803 date-stamped by the Zoning Board of Appeals and the Town Clerk on 12/19/2023.
2. Exhibit A: The Residences at Spot Pond Comprehensive Permit Application Site Plans prepared for Fellsway Development LLC by Allen & Major Associates, Inc. 100 Commerce Way, Woburn, MA dated November 16, 2023.
 - Cover
 - Existing Conditions V-100
 - Abbreviations & Notes C-001
 - Erosion Control Plan C-101
 - Site Preparation & Demolition Plan C-102
 - Layout & Materials Plan C-103
 - Grading & Spot Grades Plan C-104
 - Drainage Plan C-105A and C-105B
 - Utilities Plan C-106
 - Photometrics Plan C-107
 - Fire Truck Turning Plan C-108
 - Refuse Truck Turning Plan C-109
 - Details C-50, C-502, C-503 and C-504
 - Landscape Plan L-101
 - Landscape Details L-501 and L-502
3. Exhibit B: Narrative of existing site conditions dated December 12, 2023 presented by Allen & Major Associates, Inc. as required under section 18-33b of the Town of Stoneham Comprehensive Permit regulations.

**EXHIBIT A: File Inventory for Comprehensive Permit Decision
Residences at Spot Pond, formerly 5 Woodland Road, Stoneham
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4. Exhibit C: The Residences at Spot Pond Comprehensive Permit Application Scaled Architectural Drawings prepared for Fellsway Development LLC by Cube 3, 370 Merrimac Street, Lawrence, MA dated November 16, 2023
 - Cover Sheet A-000
 - Conceptual Rendering A-001 and A-002
 - Architectural Site Plan A-080
 - Typical Units A-601
 - Architectural - Building A
 - Building A – Front Floor Plan A1-100
 - Building A – Second Floor Plan A1-101
 - Building A - Typical Floor Plan A1-102
 - Building A - Exterior Elevations A1-200
 - Building A – Building Sections A1-300
 - Architectural – Building B
 - Building B – Podium Parking Plan A2-100
 - Building B – First Floor Plan A2-101
 - Building B - Typical Floor Plan A2-102
 - Building B - Exterior Elevations A2-200
 - Building B – Building Sections A2-300
5. Exhibit D: Unit Mix Summary for Total Number of Units with square footage for the Residences at Spot Pond as provided by Cube 3 including:
 - 24 Studio Units
 - 169 One Bedroom Units
 - 146 Two bedroom units
 - 39 Three bedroom units
6. Exhibit H: Copy of the Quitclaim Deed for 3-5 Woodland Road, Stoneham as recorded at Middlesex South Registry of Deeds in Book 31133 Page 173
7. Exhibit I: The Residences at Spot Pond Comprehensive Permit Site Plan Approval application dated June 30, 2023
8. Exhibit J: The Residences at Spot Pond Project Eligibility/Site Approval Letter to Mr. Lopez of the Gutierrez Company from Mass Housing dated November 8, 2023 and signed by Mass Housing General Counsel Colin M. McNiece
9. Exhibit L: Executive Office of Housing & Livable Communities Chapter 40B Subsidized Housing Inventory (SHI) as of June 29, 2023 showing Stoneham as having an SHI of 4.91%
10. Exhibit M: Waiver Requests Revised Through November 15, 2023 (List of five)

**EXHIBIT A: File Inventory for Comprehensive Permit Decision
Residences at Spot Pond, formerly 5 Woodland Road, Stoneham
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- 11. Exhibit N: Environmental Impact Assessment for 5 Woodland Road, Stoneham prepared by Goddard Consulting LLC for Fellsway Development LLC on November 10, 2023
- 12. Exhibit O: Traffic Impact Assessment for the Residences at Spot Pond prepared by Langan Engineering & Environmental Services Inc. on November 1, 2023
- 13. Exhibit P: The Residences at Spot Pond Fiscal Impact Analysis prepared by Fougere Planning & Development Inc. dated October 12, 2023.
- 14. Exhibit Q: Introduction of the Development Team consisting of the Gutierrez Company, Cube 3 and Allen & Major Associates Inc.
- 15. Exhibit S: Copy of the certified abutters list provided to the applicant by the Town of Stoneham Assessor's Office for the property located at 3-5 Woodland Road.
- 16. Exhibit T: Stormwater Management Drainage Report for the Residences at Spot Pond as prepared by Allen & Major Associates, Inc. on September 8, 2023.
- 17. Exhibit U: The Stoneham Housing Production Plan prepared by the Town of Stoneham and the Metropolitan Area Planning Council.

MEMORANDUM OF AGREEMENT SIGNED BY SELECT BOARD:

- 12 05 2023 Memorandum of Agreement between Fellsway Development LLC and the Town of Stoneham executed on December 5, 2023 by Arthur J. Gutierrez, President of the Gutierrez Company for Fellsway Development LLC and David Pignone, Jr., Chair, Heidi Bilbo, Vice-Chair, Timothy Waitkevich, Clerk and George Seibold for Stoneham Select Board, Town Administrator Dennis Sheehan and Town Counsel Robert Galvin as to form.

LEGAL NOTICES:

- 01 03 2024 Stoneham Board of Appeals Legal Notice for the Residences at Spot Pond public hearing on January 18, 2024 at 6:00 PM in the Town Hall Hearing Room as published in the Stoneham Independent on January 3, 2024.
- 01 10 2024 Stoneham Board of Appeals Legal Notice for the Residences at Spot Pond public hearing on January 18, 2024 at 6:00 PM in the Town Hall Hearing Room as published in the Stoneham Independent on January 10, 2024.

DEPARTMENT COMMENTS SUBMITTED:

- 01 03 2024 Stoneham Police Department comment letter submitted on January 3, 2024 by Safety Officer Laura Engel.

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01 04 2024 Stoneham Fire Department comment letter submitted on January 4, 2024 by Fire Chief Matthew Grafton.

01 17 2024 Planning & Community Development comment letter submitted on January 17, 2024 Director of Planning & Community Development Erin Wortman.

**INDEPENDENT COMMENTS SUBMITTED BY PEER REVIEWERS
ENGAGED BY THE STONEHAM ZONING BOARD OF APPEALS:**

02 01 2024 First traffic impact review comment letter by Jeffrey Dirk, Managing Partner for Vanasse & Associates, Inc. 35 New England Business Center Dr, Andover, MA dated February 21, 2024.

02 01 2024 First engineering/drainage review comment letter by Susan Spratt, Project Manager for McKenzie Engineering Group, 150 Longwater Drive, Suite 101, Norwell, MA dated February 21, 2024.

02 26 2024 First design review comment letter by Clifford Broehmer, Principal for Davis Square Architects, 240A Elm Street, Somerville, MA dated February 26, 2024.

04 08 2024 Second traffic impact review comment letter by Jeffrey Dirk, Managing Partner for Vanasse & Associates, Inc. 35 New England Business Center Dr, Andover, MA dated April 8, 2024.

05 02 2024 Third traffic impact review comment letter by Jeffrey Dirk, Managing Partner for Vanasse & Associates, Inc. 35 New England Business Center Dr, Andover, MA dated May 2, 2024.

05 28 2024 Final design review comment letter by Clifford Broehmer, Principal for Davis Square Architects, 240A Elm Street, Somerville, MA dated May 28, 2024.

05 29 2024 Second engineering/drainage review comment letter by Susan Spratt, Project Manager for McKenzie Engineering Group, 150 Longwater Drive, Suite 101, Norwell, MA dated May 29, 2024.

05 29 2024 Third engineering/drainage review comment letter by Susan Spratt, Project Manager for McKenzie Engineering Group, 150 Longwater Drive, Suite 101, Norwell, MA also dated May 29, 2024.

05 29 2024 Final engineering/drainage review comment letter by Susan Spratt, Project Manager for McKenzie Engineering Group, 150 Longwater Drive, Suite 101, Norwell, MA also dated May 29, 2024.

05 31 2024 Fourth traffic impact review comment letter by Jeffrey Dirk, Managing Partner for Vanasse & Associates, Inc. 35 New England Business Center Dr, Andover, MA dated May 31, 2024.

**RESPONSIVE COMMENTS & SUPPLEMENTAL REPORTS MADE BY
OR ON BEHALF OF THE APPLICANT - THE GUTIERREZ
COMPANY/FELLSWAY DEVELOPMENT LLC:**

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- 03 20 2024 Comment letter issued by the Gutierrez Company/Fellsway Development LLC in response to the comments made by the Director of Planning & Community Development, the Police Department and Fire Departments. April
- 04 04 2024 Comment letter issued by the Gutierrez Company/Fellsway Development LLC on April 04, 2024 in response to the comments made by the the Friends of the Middlesex Falls Reservation in letters dated January 11, 024 and March 7, 2024.
- 04 05 2024 Comment letter from Langan Engineering & Environmental Services on behalf of the Gutierrez Company/Fellsway Development LLC in response to the Residences at Spot Pond traffic peer review by Jeffrey Dirk of Vanasse & Associates dated April 05, 2024.
- 04 09 2024 Comment letter by Allen & Major Associates, Inc dated April 09, 2024 on behalf of the Gutierrez Company/Fellsway Development LLC in response to the Residences at Spot Pond engineering peer review by Susan Spratt of McKenzie Engineering including revised drainage report dated April 5, 2024 and a revised Operations & management Report dated April 5, 2024.
- 04 10 2024 Comment letter by Cube 3 Architecture dated April 10, 2024 on behalf of the Gutierrez Company/Fellsway Development LLC in response to the Residences at Spot Pond design review by Clifford Broehmer of Davis Square Architects. Bike Room Layout sheet A-150 and Building B First Floor Plan sheet A2-101 were provided with the response.
- 05 16 2024 Revised Site Plans submitted by Allen & Major Associates, Inc. dated May 16, 2024.
- 05 17 2024 Second Comment letter by Allen & Major Associates, Inc dated May 17, 2024 on behalf of the Gutierrez Company/Fellsway Development LLC in response to the Residences at Spot Pond engineering peer review by Susan Spratt of McKenzie Engineering.
- 05 20 2024 Elevation & Floorplans Revision 1 by Cube 3 dated May 20, 2024.
- 05 20 2024 Updated Drainage Report submitted by Allen & Major Associates, Inc. dated May 20, 2024.
- 05 29 2024 Third Comment letter by Allen & Major Associates, Inc dated May 29, 2024 on behalf of the Gutierrez Company/Fellsway Development LLC in response to the Residences at Spot Pond engineering peer review by Susan Spratt of McKenzie Engineering.
- 05 29 2024 Revised Site Plans submitted by Allen & Major Associates, Inc. dated May 29, 2024.

**EXHIBIT A: File Inventory for Comprehensive Permit Decision
Residences at Spot Pond, formerly 5 Woodland Road, Stoneham
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CONDITIONS OF APPROVAL RECEIVED FROM PEER REVIEWERS:

06 04 2024 Conditions of Approval letter submitted by Susan Spratt of McKenzie Engineering dated June 4, 2024.

WRITTEN PUBLIC COMMENT:

12 12 2023 Letter from Paul Rutz of 7 Executive Dr, Unit 233, Stoneham dated December 7, 2023 and received December 12, 2023.

01 11 2024 Letter from the Friends of the Middlesex Fells Reservation signed by Executive Director Chris Redfern dated and received January 11, 2024.

01 18 2024 Letter from Donald and Alana Anderson of 7 Executive Drive Unit 232, Stoneham received January 18, 2024.

01 18 2024 Letter from Diane Trovato of 11 Executive Drive Unit 111, Stoneham received January 18, 2024.

02 28 2024 Letter from the New England Memorial Hospital Medical Condominium, 3 Woodland Road, Stoneham dated February 20, 2024 and received February 28, 2024.

03 20 2024 Letter from Marina Jokic of Highland Avenue, Malden dated and received on March 20, 2024.

03 21 2024 Letter from Rosemary Galasso of 11 Executive Drive received March 21, 2024.

03 21 2024 Email from Barbara Strell of Somerville received March 21, 2024.

03 21 2024 Letter from Diane Trovato of 11 Executive Drive Unit 111, Stoneham received March 21, 2024.

03 21 2024 Letter from W. Steve and Kimberly Collins of 7 Executive Drive Unit 238, Stoneham received March 21, 2024.

03 25 2024 Letter from Donald and Alana Anderson of 7 Executive Drive Unit 232, Stoneham dated March 23, 2024 and received March 25, 2024.

03 26 2024 Letter from Brian and Susan O'Leary of 11 Executive Drive Unit 123, Stoneham dated and received March 26, 2024.

03 26 2024 Email from Paul Tansino, owner of a condo at Executive Drive, Stoneham received March 26, 2024.

**EXHIBIT A: File Inventory for Comprehensive Permit Decision
Residences at Spot Pond, formerly 5 Woodland Road, Stoneham
now known as 10 & 20 Executive Drive**

- 03 27 2024 Letter from Keegan Werlin LLP, Attorneys at Law, on behalf of the Friends of the Fells dated and received on March 27, 2024.
- 03 27 2024 Email from Denise Bonfiglio of 7 Executive Drive Unit 221, Stoneham received March 27, 2024.
- 04 26 2024 Email from Sara West of 25 Fairmount Avenue, Somerville, a member of the Friends of the Fells, received April 26, 2024.
- 04 26 2024 Email from Kari Percival of 4 Seaview Avenue, Malden, a member of the Friends of the Fells, received April 26, 2024.
- 04 26 2024 Email from Lelia Pascale of 4 West Hancock Street, Stoneham, a member of the Friends of the Fells, received April 26, 2024.
- 04 26 2024 Email from Terry J. Rice, a member of the Friends of the Fells, received April 26, 2024.
- 04 26 2024 Email from Janet Green of Malden, a member of the Friends of the Fells, received April 26, 2024.
- 04 28 2024 Email from Susan Delelio of 40 Stearns Avenue, Medford, a member of the Friends of the Fells, received April 28, 2024.
- 04 28 2024 Email from Fred Ehrhardt of Reading, a member of the Friends of the Fells, received April 28, 2024.
- 04 29 2024 Email from Chenine and Eric Peloquin, members of the Friends of the Fells, received April 29, 2024.
- 04 30 2024 Email from Camille Chesnick of 2 Sparhawk Circle, Stoneham, a member of the Friends of the Fells, received April 30, 2024.
- 04 30 2024 Email from Kirsten Derrickson-Boice of North Street, Stoneham, a member of the Friends of the Fells, received April 30, 2024.
- 04 30 2024 Email from Jessica and John Carlson, members of the Friends of the Fells, received April 30, 2024.
- 04 30 2024 Letter from the Friends of the Middlesex Fells Reservation signed by Executive Director Chris Redfern dated and received April 30, 2024.
- 05 01 2024 Email from Jennifer Moore Venault of 21 Summerhill Street, Stoneham, a received May 1, 2024.
- 05 01 2024 Email from Laurie Adamson and Dennis N. Crouse of 12 Gould Street, Melrose, received May 1, 2024.

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- 05 01 2024 Email from Ed and Joanne Trocki of 11 Executive Drive Unit 133, Stoneham received May 1, 2024.
- 05 01 2024 Email from Connie Pascale of 109 Hill Street, Apt. 4 Stoneham received May 1, 2024.
- 05 01 2024 Letter from Marina Jokic of Highland Avenue, Malden received on May 1, 2024.
- 05 01 2024 Letter from Jeffrey Adams of 93 Pond Street, Stoneham received on May 1, 2024.
- 05 01 2024 Email from Jenn Silva of 8 Steele Street, Stoneham received on May 1, 2024.
- 05 01 2024 Letter signed by Claire O'Neill, President of Earthwise Aware, received on May 1, 2024.
- 05 16 2024 Letter signed by Patrick Herron Executive Director of Mystic River Watershed Association dated May 8, 2024 and received on May 16, 2024.

MEETING MINUTES:

(All meetings held at 6PM in the Hearing Room at Town Hall, 35 Central Street, Stoneham with notice posted in compliance with Open Meeting Law)

- 01 18 2024 Opening of Public Hearing
- 02 28 2024 Continued Public Hearing
- 03 20 2024 Continued Public Hearing
- 03 27 2024 Continued Public Hearing
- 05 01 2024 Continued Public Hearing
- 05 21 2024 Continued Public Hearing
- 05 30 2024 Continued Public Hearing
- 06 06 2024 Closed Public Hearing and directed Town Counsel to prepare a draft decision with conditions
- 06 20 2024 Comprehensive Permit decision voted with agreed upon waivers and conditions

VIDEO RECORDINGS – STONEHAM TV

(Recordings available at stonehamtv.org under On Demand playlists):

- 01 18 2024 Opening of Public Hearing

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02 28 2024	Continued Public Hearing
03 20 2024	Continued Public Hearing
03 27 2024	Continued Public Hearing
05 01 2024	Continued Public Hearing
05 21 2024	Continued Public Hearing
05 30 2024	Continued Public Hearing
06 06 2024	Closed Public Hearing
06 20 2024	Comprehensive Permit decision vote

EXHIBIT B

BOARD DECISION ON APPLICANT'S WAIVER REQUESTS

The Applicant shall comply with all bylaws, rules and regulations of the Town of Stoneham unless: (1) specifically waived hereunder; or (2) as set forth in the Conditions of the Decision to which this Exhibit is attached; or (3) necessary to construct the project consistent with the Final Plans approved by the Board referenced herein, subject to the conditions of this approval. Nothing herein may be construed as a waiver of any applicable State or Federal law. The following specific waivers are granted as and to the extent set forth below:-

WAIVERS FROM ZONING				
LOCAL REGULATION	REQUIREMENT	PROPOSED	WAIVER REQUIRED	BOARD DECISION ON WAIVER
1. Section 4.15.2.4 – Garden or Town house design dwelling units	Garden or Town house design dwelling units not to exceed 310 units in the Medical/Office/Residential District provided that there is a maximum of thirty (30) units per acre for Garden dwellings and a maximum of ten (10) units per acre for Town house style dwellings.	<ul style="list-style-type: none"> • Two new multi-family garden apartment buildings with a total of 378 units; all new units are in addition to the 310 existing units allowed. Project cannot proceed without relief from the maximum number of units allowed. • Garden dwellings maximum density of thirty-eight (38) units per acre. Relief needed for density greater than the maximum density allowed by-right. 	X	#1: <i>Granted as per Revised Plans</i> #2: <i>Granted as per Revised Plans</i>
2. Section 5.21 Table 1 Dimensional Requirements – Medical/Office/ Residential Zoning District, Residential Use – Minimum Setbacks	Min. Front Yard = 30 feet.	Accessory Structure (Garage) = 10 feet. Primary structures meet the dimensional requirements and accessory buildings are a vital amenity to attract residents and maintain occupancy.	X	<i>Granted as per Revised Plans</i>
3. Section 5.2.1: Table One Dimensional Requirements – Medical/Office/ Residential Zoning District, Residential Use – Lot Coverage (Portion of lot devoted to structure.)	Max. Lot Coverage = 30%.	31.1%. Only a slight exceedance to the coverage is sought to allow the full program to be provided.	X	<i>Granted as per Revised Plans</i>
4. Section 4.15.2.10(a) - Off-Street Parking Requirements for	Minimum of 1.7 parking spaces per dwelling unit.	Less than 1.7 parking spaces per dwelling unit. Relief from the minimum parking requirement may	<i>If required</i>	<i>Granted as per Revised Plans</i>

Office/Medical/Residential Zoning District		be needed to address other concerns.		
5. Section 18-33(r)	Twenty-five (25) copies of said Application with attachments and exhibits shall be submitted to the Town Clerk upon filing.	Application and exhibits submitted electronically. As an effort to save paper and unnecessary waste, paper copies of materials will be provided as requested.	<i>If required</i>	<i>Granted</i>

If, in reviewing the Applicant's building permit application(s), the Building Commissioner determines that any additional waiver from local bylaws or regulations is necessary to permit construction to proceed as shown on the Plan, the Building Commissioner may proceed as follows: The Applicant shall be informed of any additional waiver required and (a) any matter determined by the Building Commissioner to be of a *de minimus* nature shall be deemed within the scope of the waivers granted by the Comprehensive Permit; or (b) for any matter determined by the Building Commissioner not of a *de minimus* nature, including but not limited to potential adverse impacts on public health, safety, welfare or the environment, Applicant may submit a request to the Board for a determination under 760 CMR 56.05(11).

