



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

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COMPREHENSIVE PERMIT DECISION
G.L. c. 40B, §§20-23

APPLICANT
KIG/Silverstrand Walpole, LLC

LOCATION OF PROPERTY INVOLVED
981, 989 & 1015 East Street
Walpole Assessors Map: 25; Lots 164, 165, & 166

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I. PROCEDURAL HISTORY

1. On November 8, 2022, the Town of Walpole (the “Town”) and KIG/Silverstrand Walpole, LLC (the “Applicant”) formalized a Memorandum of Agreement (the “Agreement”) towards the development of 981, 989 & 1015 East Street, Walpole, MA (the “Project”) pursuant to the Local Initiative Program (“LIP”), as administered through the Executive Office of Housing and Livable Communities (“EOHLC,” formerly the Department of Housing and Community Development).
2. During the week of November 21, 2022, the Applicant submitted the endorsed LIP application to EOHLC for approval.
3. On March 16, 2023, EOHLC notified the Town and the Applicant of the Project’s approval for Project Eligibility.
4. The Applicant submitted their Comprehensive Permit application (the “Application”) to the Town on June 7, 2023. The project consisted of the construction of one-hundred and forty-two (142) rental apartments, of which there are sixteen (16) studios, eighty-six (86) one-bedrooms, twenty-five (25) two-bedrooms, and fifteen (15) three-bedrooms. The entire Project will be contained within one building.
5. The Board’s hearing was duly opened on June 26, 2023 and continued to July 26, 2023; September 6, 2023; October 11, 2023; November 20, 2023; January 3, 2024; January 22nd 2024, February 26th 2024, and April 3rd 2024. All submittals concerning the Project are part of the administrative record kept at Walpole Town Hall and incorporated herein. All waivers requested and approvals are listed in Exhibit A and

incorporated herein.

6. The Project is located at 981, 989, and 1015 East Street, Walpole, Massachusetts and identified on Walpole Assessors Map 25, Parcel 164, Parcel 165, and Parcel 166.
7. The Project is located in the Central Business Zoning District (CBD) and consists of approximately 1.9 acres, or 83,070 square feet. The Project is entirely a redevelopment project as all three parcels part of the Project were previously developed. Both 981 and 989 East Street have existing residential structures and 1015 East Street contains a vacant commercial feed and grain supply store. A sewer easement runs along the eastern side of the 1015 East Street parcel and commuter railroad lines are along the west and northern side of the same parcel.
8. The Applicant provided certain materials, reports, and revised plans during the course of the public hearing process on the Application. During the public hearing, the Applicant was represented by Geoff Engler & Justin Krebs, KIG/Silverstrand Walpole, LLC, civil engineering and landscape architects from Bohler Engineering, architecture consultant Embarc, traffic consultant Vanasse & Associates, geotechnical consultant McPhail Associates, and environmental consultant Goddard Consulting.
9. The Board utilized the services of Tetra Tech, Inc. for the primary civil engineering peer review. The Board also utilized Weston & Sampson for peer review associated with changes to the Town's sewer easement. Town Counsel of KP Law also attended the public hearings and advised the Board.
10. The Applicant agreed to an Extension of Time for the Public Hearing in writing on December 5, 2023 to extend the hearing until January 31, 2023 and again on January 16, 2024 to extend the hearing until April 1, 2024, and lastly on February 26th to extend the hearing until May 15th 2024.
11. At the April 4, 2024 meeting, the Board voted to close the public hearing. After deliberation the Board would vote to conditionally approve the Comprehensive Permit.

II. JURISDICTIONAL FINDINGS

1. The Applicant received a Project Eligibility Letter ("PEL") from the Department of Housing and Community Development (now known as EOHLC) dated March 16, 2023 and submitted a copy to the Board with their original application. According to the PEL, the Applicant has demonstrated its eligibility to submit an application for a

Comprehensive Permit to the Board, and the Project fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:

- a. The Applicant has formed a limited dividend entity, KIG/Silverstrand Walpole, LLC, which is a single-purpose entity created for the purpose of the Project. KIG/Silverstrand Walpole, LLC has a principal place of business of 257 Hillside Avenue, Needham, Massachusetts 02494. The Applicant has agreed to conform to the limited divided requirements of M.G.L Chapter 40B.
- b. The Applicant has included a copy of Purchase and Sale Agreements and certain deeds regarding the Property upon which the Board relies, in relevant part. According to the PEL, the Applicant has shown threshold evidence of site control sufficient to qualify as an Applicant for a Comprehensive Permit.
- c. The Applicant has agreed to execute a Regulatory Agreement that limits its total profit and directs the redistribution of excess profit in accordance with the regulations adopted by the Massachusetts Department of Housing and Community Development (“DHCD”), and continued through DHCD’s successor the Massachusetts Executive Office of Housing and Livable Communities (“EOHLC”).

III. FACTUAL FINDINGS

1. The Town of Walpole actively pursued the LIP process with the Applicant over a traditional 40B route. Factors leading to that decision include the creation of affordable housing, redevelopment within a commercial center near public transit, a cooperative approach in planning certain aspects of the project, and agreed upon off-site mitigation costs that were formalized within the Memorandum of Agreement dated November 8, 2022, attached as Exhibit B. The terms and conditions of the Memorandum of Agreement are expressly incorporated herein, except to the extent any condition conflicts with any condition of this decision, in which case the condition of this decision shall govern.
2. The Board is aware that the goal of G.L. c. 40B is to promote the development of affordable housing consistent with Local Concerns. Pursuant to 760 CMR 56.02, Local Concerns involve 1) the need to protect the health or safety of the occupants of a proposed Project or of the residents of the municipality; 2) to protect the natural environment; 3) to promote better site and building design in relation to the surroundings and municipal and regional planning; 4) or to preserve Open Spaces.

With the Project as conditioned, and the waivers granted, the Board is of the opinion that this decision will promote affordable housing consistent with Local Concerns.

3. The Board engaged its peer review agent, Tetra Tech, to review issues concerning civil engineering, traffic, site design, and stormwater impacts of the Project. The Board sought additional peer review through Weston & Sampson for the review of the proposed changes to the sewer collection system. The Board also sought comments from Town Departments and abutters in the surrounding area.
4. Certain characteristics of the Project were chosen as a result of feedback from Town Departments prior to submittal of the LIP application. This included access to all sides of the building for fire apparatuses, two-way circulation and access to the site, EV stations moved to outdoor surface level parking only, enclosing the proposed swimming pool, and publicly accessible amenities including landscaped sitting areas. The position of the building was also chosen to appear more approachable within the public way.
5. In review of the project, the Board expressed concern for the offsite improvements of extending a sidewalk connection along the same side of the road as the Project in order to provide a continuous pedestrian pathway to Walpole Station. The Applicant alleviated this concern by working with Town Engineering on a proposed solution that they submitted to the Board, which has been incorporated within the decision herein.
6. The Board expressed concern over the location for a delivery drop-off area. The Applicant highlighted that the Town Departments also expressed that concern which is why the delivery drop-off location was moved on site to the front of the building. Hearing the Board's concerns, the Applicant amended the plans to make the middle landscape island in front of the building the new delivery drop-off location. Proper signage would be included to identify this location for delivery drivers.
7. The Board expressed concern with the proposed parking count of 171 parking spaces for 142 units. In support of the reduced parking, the Applicant provided a breakdown within a narrative dated September 6, 2023. This narrative provided a comparison between the Project's parking spaces and its relation to parking spaces provided at similar nearby residential developments within Walpole and with previous projects done by the Applicant. Further evidence within the Applicant's narrative highlighted the method of "unassigned parking" as a way of providing parking spaces for a development's residents. To provide greater flexibility the Applicant stated that parking would not be included within the lease of any unit, and that future tenants

would have the option of requesting a parking space as a separate “Parking License Agreement,” charge if they wished to have a parking space. By providing the tenant with the option to void their need for a parking space, this would free up parking spaces only to those tenants that needed or wanted a parking space. Further evidence put forward by the Applicant to support their waiver in the reduction in parking spaces included the site’s proximity to public transportation, bicycle parking storage, and the option to utilize ride share services and the findings of the Metropolitan Area Planning Councils’ WestMetro Parking Utilization Study.

8. The Board also expressed concern over the proposed building’s height of 69 feet 11 inches. The Applicant provided an explanation and justification for the proposed height through a number of factors. Within an architectural narrative prepared by the Applicant’s Architect, Embarc Design, dated September 6, 2023, it was noted that the massing and exterior of the proposed building was the result of feedback from Town Departments in order to make the building less towering over East Street. This was achieved through providing a greater setback from the front property line and by staggering the front facade, to help break up the building’s massing. This choice in design was intended to provide a more visibly pleasing building. Along with the submitted September 6, 2023 architectural narrative, an updated architectural package, revised September 6, 2023 was provided which showed what a potential building could have looked like using the Central Business zoning district’s dimensional regulations, and a shadow effect map to highlight the limited impact the building’s height would have on abutting properties.
9. The Town’s Water & Sewer Consultant Weston & Sampson issued a memo on January 11th 2024. Weston & Sampson performed a review of the Applicant’s project plans and proposed sewerage needs within the context of the existing system. Weston and Sampson concluded that, “based on our review of existing data and the calculated theoretical hydraulic capacity evaluation, the sewers affected by the proposed connection appear to be capable of handling the proposed sewer discharge from the development.” Weston and Sampson also had additional recommendations relative to the proposed sewer layout which shall be reflected by the Applicant in the Building Permit Plan Set.
10. In consideration of the need for appropriately planned affordable housing in Walpole and the Local Concerns discussed above, the Board finds that granting this Comprehensive Permit with the conditions and waivers contained below provides a significant number of affordable housing units consistent with Local Needs.

11. The Applicant was afforded ample opportunity to address the conditions discussed during the public hearing and did not challenge the conditions on the grounds that they either singly or in the aggregate rendered the Project uneconomic. Therefore, the Board finds that such conditions will not render the project uneconomic.
12. The Board's grant of this Comprehensive Permit shall not be construed to either confirm or deny any property rights with regard to the Project or neighboring properties.

IV. CONDITIONS

A. **General**

- A.1 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.1, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). The Approved Plans shall only apply to the information shown or described on the Plans identified below. The Approved Plans consist of the following:

"Preliminary Civil Engineering Plan Set for KIG Silverstrand Walpole, LLC, Proposed Multi-Family Development", prepared by Bohler Site Civil and Consulting Engineering, 362 Turnpike Road, Southborough, Massachusetts 01772, dated May 31, 2023, with revisions through January 3, 2024

The Plan Set consisted of the following sheets:

Sheet C-101: Cover Sheet
Sheet C-102: General Notes Sheet
Sheet C-201: Demolition Plan
Sheet C-301: Site Layout Plan
Sheet C-401: Grading & Drainage Plan
Sheet C-501: Utility Plan
Sheet C-601: Erosion and Sediment Control Plan
Sheet C-602: Erosion and Sediment Control Notes & Details
Sheet C-701: Landscape Plan
Sheet C-702: Landscape Notes & Details
Sheet C-901: Detail Sheet
Sheet C-902: Detail Sheet
Sheet C-903: Detail Sheet

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Sheet C-904: Detail Sheet
Sheet 1 of 1: Existing Conditions Plan

Additional Plans:

Architectural Plans, "1015 East Street, Walpole, MA, Comprehensive Permit Plan Set Submission," prepared by Embarc, 580 Harrison Avenue, Suite 2W, Boston, MA 02118, dated May 31, 2023, and revised August 24, 2023

Fire Truck Turn Exhibit, "Preliminary Civil Engineering Plan Set for KIG Silverstrand Walpole, LLC, Proposed Multi-Family Development", prepared by Bohler Site Civil and Consulting Engineering, 362 Turnpike Road, Southborough, Massachusetts 01772, dated May 31, 2023, with revisions through August 30, 2023

Garbage Truck Turn Exhibit, "Preliminary Civil Engineering Plan Set for KIG Silverstrand Walpole, LLC, Proposed Multi-Family Development", prepared by Bohler Site Civil and Consulting Engineering, 362 Turnpike Road, Southborough, Massachusetts 01772, dated May 31, 2023, with revisions through August 30, 2023

Loading Truck Turn Exhibit, "Preliminary Civil Engineering Plan Set for KIG Silverstrand Walpole, LLC, Proposed Multi-Family Development", prepared by Bohler Site Civil and Consulting Engineering, 362 Turnpike Road, Southborough, Massachusetts 01772, dated May 31, 2023, with revisions through August 30, 2023

- A.2 The Applicant shall be a Limited Dividend Organization as required by Chapter 40B and it and its successors and assigns, shall comply with the limited dividend and other applicable requirements of Chapter 40B and the regulations adopted thereunder.
- A.3 The Project shall consist of not more than one hundred forty two (142) apartment rental units. These units shall be comprised of sixteen (16) studio apartments, eighty-six (86) one-bedroom apartments, twenty-five (25) two-bedroom apartments, and fifteen (15) three-bedroom apartments.

- A.4 The Project provides a total parking count of one hundred seventy-one (171) parking spaces. These parking spaces shall be comprised of fifty-nine (59) below-grade parking garage spaces, of which two (2) will be handicap accessible parking spaces, and one hundred twelve (112) open air parking spaces, of which four (4) will be handicap accessible parking spaces.
- A.5 All residential units approved under this Comprehensive Permit shall be apartment rental units. All affordable units shall be interspersed evenly throughout the Project, as approved by the Subsidizing Agency during Final Approval.
- A.6 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Walpole Zoning Bylaw and other local by-laws and regulations as specified therein. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§20-23, and no waivers of any requirements otherwise within the Board's jurisdiction under G.L. c.40B, §§20-23 have been granted except for those specifically granted by the Board as set forth in Exhibit A. To the extent the Approved Plans reflect a waiver not expressly granted in Exhibit A, the terms and conditions of Exhibit A shall govern. Any subsequent revision to the Approved Plans, including but not limited to revisions that are apparent in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- A.7 The Project shall comply with all local regulations of the Town of Walpole and its boards, commissions and departments unless specifically waived herein.
- A.8 The Applicant shall notice the Board, through the Board Administrator and the Community and Economic Development Director, on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.

- A.9 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Building Inspector or other Town Departments, the Building Inspector or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Building Inspector or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant.
- A.10 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the Project, the Applicant must comply with 760 CMR 56.05(12) and this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project.
- A.11 The sidewalks, utilities, drainage systems, and all other infrastructure shown on the Approved Plans, and within the boundaries of the 40B project site, as serving only the Project shall remain private. The Town of Walpole shall not have any legal responsibility for the operation or maintenance of infrastructure within the proposed project site.
- A.12 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision. The designated agent's powers to review and approve matters on behalf of the Board shall not be the same as changes that rise to the level of requiring Board review as dictated under 760 CMR 56.05 (11)
- A.13 The Applicant shall submit to the Board prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Site, whether or not pursuant to a building permit, the following
- a. A copy of this Comprehensive Permit recorded with the Norfolk Registry of Deeds
 - b. Design Development Architectural Plans, which shall be prepared, signed and sealed by an architect with a valid registration in the Commonwealth of Massachusetts.

- c. Engineering Drawings and Plans (the “Updated Plans”) that shall conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Updated Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Updated Plans shall be signed and sealed by the Professional Land Surveyor of record, and the Professional (Civil) Engineer of record. The Updated Plans shall identify the ownership of all parcels or easements utilized within and abutting the project site. The Updated Plans shall be submitted to the Board at least thirty (30) days prior to the submission of an application for building permits (the "Updated Plan Submission Date").

At a minimum, the Updated Plans shall be in accordance with the comments from the peer review consultant and town staff detailed during the course of the hearing. If no written response or comments have been given to the Applicant by the Board concerning the Updated Plans within thirty (30) days after the Final Plan Submission Date, the Updated Plans, as delivered, will be deemed to have been approved.

A final set of construction drawings (“Final Plans”) will be submitted by the Applicant as part of their full building permit application.

The Applicant will be allowed to file for a demolition and/or sitework permits prior to the provision of any of the requirements enumerated in sub-section a, b and c above. The Applicant, should it meet the requirements of the demolition and/or sitework permit, shall be allowed to act on that permit prior to receiving a Final Building Permit.

B. Affordability

- B.1 A minimum of 25% of the rental dwelling units shall be low- or moderate-income units (“Affordable Units”), meaning that they shall be rented to, and occupied by, households whose income is not more than 80% of the Area Median Income (“AMI”), as determined by the United States Department of Housing and Urban Development (“HUD”) and EOHLIC. Affordable Units shall be dispersed throughout the Project in accordance with the guidelines of the Subsidizing Agency. The Applicant shall be responsible for maintaining records sufficient to comply with EOHLIC guidelines for the location of Affordable Units in the Project and occupancy of such Units by income-eligible households.

- B.2 Upon completion of the Project, and in perpetuity, at least thirty-six (36) units shall meet the criteria for inclusion in the EOHLC's Subsidized Housing Inventory.
- B.3 The Applicant shall obtain approval by the EOHLC of an affirmative fair housing marketing plan prior to the rental of any units, and shall ensure that the Project complies with the EOHLC's fair housing requirements.

C. Submission Requirements

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Site, whether or not pursuant to a building permit, the Applicant shall:
 - a. Prior to the commencement of any work on the site, the Applicant and the site general contractor shall attend a preconstruction conference with the Building Inspector and other Town staff as may be determined.
 - b. Deliver to the Board a check for Five Thousand and 00/100 Dollars (\$5,000.00) to be used for the Board to retain outside experts for technical and legal reviews and inspections required under these conditions. Said funds shall be deposited by the Board in an account pursuant to G.L. c. 44, s. 53G and shall only be used for technical reviews and to confirm compliance with the Comprehensive Permit Decision.
 - c. Obtain a National Pollution Discharge Elimination System (NPDES) Permit from the U.S. Environmental Protection Agency (EPA), if necessary. The Board shall also be provided a copy of the SWPPP submitted along with the NPDES filing.
 - d. Determine the volume of cuts/fills needed for the Project and provide such information to the Building Inspector, signed by the Registered (Civil) Engineer of record.

- e. A Construction Management Plan shall be submitted to the Building Inspector for review and approval, including, but not limited to, dust control measures, fill delivery schedules, stockpiling areas, parking for contractors, and all other like matters. The Construction Management Plan shall include a plan for ensuring health and safety concerning disturbance and stockpiling of potentially contaminated soils on site, including a plan for sampling, testing, and covering disturbed and stockpiled soils and materials on site and/or transfer off-site, in accordance with state statutory and regulatory law. The Construction Management Plan shall also provide a 24-hour contact person for the Applicant who will be available to respond to local officials or area residents reporting issues or problems, which may arise during construction.
- f. Submit to the Building Inspector a construction schedule outlining the entire development of the Project.
- g. Submit to the Building Inspector a Site-Specific Safety Plan including but not limited to emergency contacts information for the job team, muster point for emergency personnel, emergency response plan, sign-in area for all site visitors, designated employee parking area, and designated fueling area. All employees on site shall be responsible for understanding the plan and at any point during the construction process and shall be checked by the building inspector for compliance of all site personnel.
- h. Submit to the Building Inspector a Material Safety Data Sheet, a copy of which shall be kept on site with any materials brought on site and used on site by the construction team. The Material Safety Data Sheet shall be kept up-to-date during the entirety of the construction process.
- i. Other than site work and such other work as may be authorized in writing by the Building Inspector, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Building Inspector, in consultation with the Board's agent, have approved the Updated Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Building Inspector concerning the Updated Plans within thirty (30) days after the Updated Plan Submission Date, the Updated Plans, as delivered, will be deemed to be consistent.

C.2 Prior to the issuance of any building permits, the Applicant shall:

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- a. Submit to the Board and the Building Inspector evidence of Final Approval from EOHLC, as required by the Project Eligibility letter and the Chapter 40B regulations.
- b. Submit to the Board and the Building Inspector a certified copy of the Regulatory Agreement and Monitoring Services Agreement for the Project. Execution and recording of such Regulatory Agreement and subsidy funding commitment by EOHLC, or an approved New England Fund lender shall be complete prior to the issuance of any building permit.
- c. Within 360 days of the building permit application, the Applicant will submit for a sign application, as applicable, to the Building Inspector and include location and details of any sign to confirm its compliance with this Decision, unless otherwise waived.
- d. Submit all Final Plans to the Board for their review and approval.
- e. Obtain and file with the Building Inspector a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
- f. Within 360 days of the building permit application, obtain all necessary electrical, plumbing, and other permits required to construct the building for which the building permit is sought.

D. Construction Completion/Certificate of Occupancy

- D.1 Prior to issuance of a certificate of occupancy for any portion of the Project, the Applicant shall:
- a. Submit engineer's interim certification of compliance with utilities plan and profiles (as applicable) to the Walpole Building Inspector.
 - b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the as-built Project has been constructed in compliance with the Final Plans in all material respects, or noting where there are differences.
 - c. Obtain acceptance from the Walpole Fire Department of testing of all fire smoke alarms within the dwelling units and that all fire hydrants are in place at proper grade and functioning.

- d. All off-site improvements and the site access roadwork must all be completed to binder course with all castings/valve boxes to binder grade, subject to review and approval of by the Town Engineer.
 - e. The Applicant shall complete the Road Safety Audit, as referenced within the Transportation Impact Assessment, by Vanasse & Associates, Inc., dated October 2022 and updated April 2023.
 - f. Adequate signage identifying site circulation pattern, visitor parking, ADA accessible parking, delivery drop-off location, and tenant loading area shall be submitted and approved by the Building Inspector.
- D.2 Prior to issuance of the final certificate of occupancy for the last dwelling to be occupied, the Applicant shall:
- a. Submit to the Building Department for review, in digital file format, a final as-built utilities plan including profiles, showing actual-in ground installation of all applicable utilities, rim and invert elevations, roadway, sidewalk and associated construction. The file format shall be in a form acceptable to the Building Department. AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, road centerline and associated text. Said digital data shall be delivered in the Massachusetts State Plane Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet.
 - b. Submit to the Building Inspector as-built plans for the building in the Project.
 - c. Submit verification that the stormwater management system including but not limited to catch basins, infiltration units, pipes and detention basin has been inspected, cleaned and final approval by peer review engineer (if applicable) and Conservation Commission.
 - d. Submit to the Board a letter certifying compliance with all terms and conditions of this Comprehensive Permit.

- f. Certification from the Town's DPW Water and Sewer Department that all sewer and water systems have been installed, tested, and that all valve covers and other related items are at grade and are in proper working condition.

E. Project Design and Construction

- E.1 If Applicant has obtained a demolition permit, Applicant may proceed with demolition of existing structures in accordance with the terms and conditions of the permit. Applicant may also file a permit to proceed with site work in advance of building permit submittal, provided it meets the conditions and review of the Building Inspector.
- E.2 The Applicant shall permit, upon a 48-hour notice, subject to applicable safety standards, representatives of the Board to observe and inspect the Site and construction progress until such time as the Project has been completed.
- E.3 The proposed construction shall be in accordance with applicable Federal, State and Local laws, rules and regulations not waived herein, including but not limited to laws regarding noise, vibration, dust, and blocking of Town roads.
- E.4 The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area.
- E.5 During construction, the Applicant shall comply with the construction management plan referenced in Condition C.1.(e).
- E.6 The location of all utilities, including but not limited to electric, telephone, and cable, shall be provided to the Building Inspector prior to the issuance of any building permits shown on the Final Plans.
- E.7 Lighting shall comply with specification provided by the Building Department. Lighting features include, but are not limited to, light poles, bases, & luminaires.
- E.8 Utilities, including but not limited to telephone, electric, and cable, shall be located underground from the last existing pole on East Street.
- E.9 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Project Engineer to the Town Engineer as meeting design specifications, as applicable.

- E.10 Construction activities shall be conducted between the hours of 7:00 A.M. and 7:00 P.M. and in accordance with the Town of Walpole General Bylaws
- E.11 Burning or burial of construction or demolition debris on the site is strictly prohibited. All such materials are to be removed from the site in accordance with applicable law, and Applicant shall provide manifests/bills of lading to the Building Inspector certifying the removal of any waste or contaminants from the Project site. The Applicant shall also include a dumpster location and management plan for approval by the Building Inspector prior to commencement of work at the site including a dumpster emptying and removal protocol from a duly licensed and insured private contractor approved by the Building Inspector. During construction, the site shall be secured against unauthorized entry or vandalism by construction security fencing, and all construction materials shall be stored or stockpiled in a safe manner.
- E. 12 If applicable, the Applicant shall identify the location on site of any temporary construction trailer for the Building Inspector's approval. The Applicant shall renew the building permit for the construction trailer every six (6) months for a maximum of five (5) extensions. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties.
- E.13 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 paving or loaming and seeding exposed areas. If applicable, all 2:1 slope areas shall be permanently stabilized with rip rap or vegetated cover.
- E.14 All retaining walls visible from a public way or direct abutters, as determined by the Building Inspector, shall be constructed in an aesthetic manner. All site retaining walls that are four (4) feet or greater in height shall be designed by a Massachusetts Professional Structural Engineer.
- E.15 Snow shall be stored within the areas of the site designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage on the site, the Applicant shall truck the excess snow off-site within 48 hours of storm end.

- E.16 The Applicant shall comply with all applicable state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.
- E.17 The Applicant is responsible for the sweeping, removal of snow and sanding of the roadways and driveways providing access to residents of the Project, as well as emergency vehicles.
- E.18 The Applicant shall maintain all portions of any public road, whether state or local roads, used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.
- E.19 All construction vehicles shall be parked on the Property. No construction equipment can be staged on East Street, or any other public way.
- E.20 Prior to the commencement of any work on the site, the Applicant and the site general contractor shall submit a plan indicating soil, debris, and other deleterious materials to be removed as well as materials to be brought into the Property including soil, stone, gravel, pipe, drainage structures, riprap, sand, loam, mulch, etc. The plan shall also include provisions securing the site so that children are kept out of the site and are protected against unsafe conditions. Estimated quantities of said materials shall be provided as well as estimated delivery schedule.
- E. 21 Prior to the commencement of any work on the site, the Applicant and the site general contractor shall submit a dust mitigation plan and air quality management plan to the Building Inspector. Water must be used to mitigate any dust caused by rock crushing, soil sifting, or any other dust creating operation.

- E.22 Construction security fencing shall be utilized until the first occupancy permit is issued, or at the discretion of the Building Inspector, to ensure the safety and security of the site for the benefit of the surrounding neighborhood and the Applicant. Six (6) foot tall chain-link fencing shall be utilized with access gate at the entrance of the site. Walpole Fire Department shall have a knox box placed accessible at the entrance to the gate during the construction process.
- E.23 A proper truck wash pad shall be created and maintained at the entrance to the site, off of East Street, to wash and diminish the tracking of any debris from the site onto East Street. The construction team shall sweep the section of East Street impacted by site work every day at the completion of work. This shall continue until the final layer of pavement is installed on this section of East Lane.
- E.24 All construction equipment must be off-loaded on the construction site by means of the stabilized construction entrance on East Street.
- E.25 The Applicant shall submit a trucking routes plan, subject to the review and approval of the Town Engineer and/or Police Department.

F. Roadway and Traffic Safety Conditions

- F.1 Access and egress to the Project site shall be consistent with the Approved Plans.
- F.2 The Applicant shall complete the Road Safety Audit prior to issuance of a Certificate of Occupancy (see condition D.1.i)
- F.3 A Transportation Demand Management (TDM) program shall be established for the Project. This program shall promote alternative transportation modes by posting local commuter rail scheduled and encouraging residents to use public transportation and ridesharing.
- F.4 The Applicant, in coordination with the Town, shall fund (up to \$20,000) the design and implementation of traffic signal timing and phasing improvements at the signal system along Main Street at its intersections with East Street, Stone Street/Glenwood Avenue/West Street and Common Street/Elm Street.

F.5 Signage identifying site circulation pattern, visitor parking, ADA accessible parking, delivery drop-off location, and tenant loading area should be submitted and approved by the Building Inspector prior to obtaining a Certificate of Occupancy (see condition D.1.j).

F.6 The Applicant shall work with the Town for the execution of all mitigation projects identified within the executed Memorandum of Agreement. This includes, but is not limited to, traffic mitigation identified during the ZBA's hearings. One such mitigation project is the construction of sidewalk along the northern side of the East Street between the Project's western boundary and the crosswalk at the intersection of East Street and Glenwood Avenue. This traffic mitigation project involving the construction of sidewalk is identified within the Approved Plans, Sheet C-301: Site Layout Plan.

G. Police, Fire, and Emergency Medical Conditions

G.1 Pursuant to the Massachusetts Comprehensive Fire Safety Code, 527 CMR 1, 18.1.1.5, Applicant shall submit to the Fire Department a fire apparatus access plan signed and stamped by a registered professional engineer which shows to the fire chief and deputy chief's satisfaction that there is a turning radius in and out of the Project sufficient for fire truck access and clearance of the bucket portion of the aerial apparatus of the truck.

G.2 Fire hydrants shall be placed as shown on the Approved Plans or in alternative locations approved by the Walpole Fire Department. If the Walpole Fire Department approves different hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).

G.3 The Applicant shall obtain Fire Department Approval of emergency access prior to issuing a building permit (see condition C.2.g).

H. Water, Septic, Stormwater and Utilities

H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.

H.2 All water infrastructure shall be installed in conformance with the Town of Walpole's requirements. The Applicant shall consult with the DPW Water and Sewer Department prior to the commencement of construction.

- H.3 The Applicant shall work with the Town, more specifically the Town Engineering Department and Town Counsel to determine the most advantageous method for the Town's rights under the existing sewer easement to be transferred and conveyed to the Town for purposes of maintaining its rights over the relocated sewer easement. The Applicant and the Town will work in good faith to assess the most expeditious manner in which easement rights can be surrendered and granted. One possible option may include the Town taking the easement rights through action by the Walpole Board of Sewer and Water Commissioners. A final agreed upon approach and all associated documentation, will be subject to the review and approval of Town Counsel and Legal Counsel for the Applicant.
- H.5 All water and sanitary sewer improvements necessary to serve the Project must be completed, and interim as-built plans must be submitted to and approved by the DPW Water / Sewer Department, before any occupancy permits for the Project may be issued.
- H.6 Stormwater management facilities shall be constructed as shown on the Approved Plans.
- H.7 Applicant must confirm access rights if work is required on abutting parcels prior to issuing of a building permit.
- I. Completion of Infrastructure:**
- I.1 All work within the public way, as well as work related to the sewer relocation within the existing/proposed easements, shall be guaranteed by a performance security in a form acceptable to Town Counsel and the Town Treasurer/Finance Director, being either a letter of credit or bond. The value of said work shall be established by the Walpole Engineering Department and held by the Board of Appeals. The security shall remain in place until the work is completed and accepted by the Board of Appeals, in consultation with the Town Engineer. The security may be reduced from time to time by the Board of Appeals, however, the security value shall not be reduced below 25% of its original value until as-builts are provided and reviewed and the work is accepted by the Town.
- J. Other General Conditions**
- J.1 Commencement of Project construction shall be consistent with the agreement identified within the Memorandum of Agreement, Section I.J, and incorporated within this decision under Exhibit B.

- J.2 The Applicant shall comply with all local regulations of the Town of Walpole and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.3 The Applicant shall maintain any landscaping proposed within the public way.
- J.4 This Decision prohibits the parking or storage of any unregistered vehicle on the site, and likewise prohibits the service of any vehicles on the site, except during construction.
- J.5 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) issue a cease and desist order requiring the cessation of default, violation or breach of these conditions, such order to require an appearance by the Applicant before the Board of Appeals to address such matters and commit to a reasonable course of action to cure such default, violation or breach; (b) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; or (c) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.
- J.6 If repairs to town infrastructure are required, the Applicant is responsible for removing and/or replacing the surface improvements of areas within the 40B parcel site.
- J.7 Each dwelling unit will have an opportunity to rent at least one (1) parking space. Any dwelling unit seeking to rent more than one (1) parking space may only do so after each dwelling unit within the entire Project has been given the opportunity to rent at least one (1) parking space. The Affordable Units shall be given the opportunity to rent at least one (1) parking space at a reduced equitable rate consistent with their reduced rental costs.

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Sanctuary on East, KIG/Silverstrand Walpole, LLC
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- J.8 The Applicant agrees to pay the Town a total of \$1,100,000 comprising sewer and water connection fees, and sidewalk and roadway improvements, traffic, and Project related mitigation payments, consistent with the executed Memorandum of Agreement, dated November 8, 2022.
- J.9 All provisions of the executed Memorandum of Agreement, dated November 8, 2022 shall be upheld and incorporated herein as referenced within Exhibit B, except to the extent inconsistent with any condition in this decision, in which case the condition in this decision shall govern.

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DECISION

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit for the construction of one hundred forty-two (142) apartment rental units, of which at least thirty-six (36) of which will be affordable pursuant to Chapter 40B, §§ 20-23, for the development described above.

SIGNATURE PAGE TO FOLLOW

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RECORD OF VOTE

On April 3, 2024, the Board, on a motion from Mr. Delaney, and seconded by Mr. Fitzgerald, voted 3-2-0 (Lee- nay, Delaney- aye, Fitzgerald- aye, Conroy- nay, Hoegler- aye) to approve the Comprehensive Permit application of KIG/Silverstrand Walpole, LLC, to allow for the proposed Project at 981, 989 & 1015 East Street, consisting of a total of 142 housing units pursuant to Chapter 40B, §§ 20-23.

On April 3, 2024, the Board, on a motion from Mr. Delaney, and seconded by Mr. Hoegler, voted 5-0-0 (Lee- aye, Delaney- aye, Fitzgerald- aye, Conroy- aye, Hoegler- aye) to authorize Robert Fitzgerald, Board Clerk to sign the decision on behalf of the Board.



Robert Fitzgerald, Board Clerk

Date: 4/5/24

Filed with the Town Clerk on 4/8/2024



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 Town Clerk, Town Hall, Walpole, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.

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Pursuant to the Waiver List revised and submitted to the Board, the Applicant has requested, and the Board has granted, waivers from the Walpole Zoning Bylaws and other local by-laws and regulations as specified in the attached Exhibit A. No waivers are granted from requirements that are beyond the purview of G. L. c. 40B, §§20-23, and no waivers have been granted other than those set forth in Exhibit A.

Requested Waivers as of November 20, 2023

SECTION	DESCRIPTION	WAIVER	NOTES
WAIVERS FROM ZONING BYLAW OF THE TOWN OF WALPOLE			
Section 8.3.1	Parking Reduction Special Permit	Waiver request to review parking reduction Special Permit request under the Comprehensive Permit.	Approved.
Section 5-B.1.3.d(ii)	Use Table (Residential) – dwelling located on lot w/ 30,000sf plus 10,000sf additional for each unit in excess of 3	Waiver requested to allow a residential use of 142 units for a site of 83,070 square feet, where 8 units would be permitted.	Approved.
Section 6-B-1	Building Height (52' max.)	A building height of 69' 11" is proposed.	Approved. Voted 3-2
Section 6-B.1	Front Building Setback: 0' Minimum 25' Maximum	Front Building Setback: 6' -7" Minimum 78' 8" Maximum	Approved.
Section 8.7.B	Parking lots shall not be allowed in front of buildings along public way	A small portion of the total parking is proposed in a parking area at the front of the building.	Approved
Section 8.7.C	Landscaping required to screen ground level parking facing streets/open space	A small portion of the total parking is proposed in a parking area at the front of the building. Various landscape and pedestrian amenities are proposed along the street.	Approved.
Section 8.8.A	Parking Space and Aisle Dimensions – 90 degree parking requires 9' wide space, 18.5' long, 26' wide aisle Accessible spaces must comply with local dimensions.	Off street parking is proposed with dimensions of 9' wide, 18.0' long for parking spaces that aren't otherwise designated as compact parking spaces, and aisle widths of 24' for two-way traffic and 20' for one-way traffic. Further, accessible parking spaces are proposed to meet state requirements relative to stall and aisle dimensions.	Approved.
Section 8.8.B(1)	Amount of Landscaping – min 10% open space within areas designated for parking for 6 or more spaces	2.2% open space within parking areas.	Approved.
Section 8.8.B(2) & Section 5-G	Buffers – landscape requirement per section 5-G between non-residential uses & future residential development areas	East Street Buffer: 0-6.6' (varies) Mass Bay Buffer: 2.4'-5.4' (varies) Easterly Abutter Buffer: 0-30' (varies)	Not Applicable.
Section 8.8.B(3)	Parking Aisles – landscaping islands internal to rows of parking for rows exceeding 25 spaces (island spacing every 13 spaces)	Internal landscape Islands between parking spaces are not proposed.	Approved.

SECTION	DESCRIPTION	WAIVER	NOTES
Section 13	Site Plan Review	Waiver requested from Site Plan Review and all applicable Site Plan Review requirements under this section.	Approved.
WAIVERS STORMWATER MANAGEMENT & EROSION CONTROL BYLAW OF THE TOWN OF WALPOLE			
Section 8.B.3.c(ii)	Profiles of drain trunk lines	Drain lines are detailed on the Utility Sheet with slope, size, material, inverts and crossings.	Approved.
Section 8.B.E.2	No runoff conducted over public ways	Under large storm events portions of the site may have stormwater runoff into the public way.	Approved.
Section 8.B.E.5	Avoid disturbance within buffer zones and flood plains	The majority of the site is redeveloping previously disturbed areas within buffer zones.	Approved.
Section 8.B.E.18	Granite curb inlets at CBs	The applicant proposes standard grated catch basin inlets	Approved.
Section 8.B.E.23(a)	minimize dewatering soils by limiting grading within 4' of SHGW	Portions of the building will be located within 4' of SHGW.	Approved.
Section 8.B.E.23(b)	bot. elev. of building a min. of 2' above SHGW	Portions of the building will be located below the 2' SHGW.	Approved.
WAIVERS FROM WETLANDS PROTECTION BYLAW OF THE TOWN OF WALPOLE			
Section 1.4.1	No Alteration Zone (25')	Work is proposed within 25' of the wetland resource area.	Approved.
Section 1.2 Protected Resource Areas	Protected resource area buffers include (a) 100-foot horizontally lateral from any of the foregoing areas; or (b) 100- foot lateral from the water elevation of the 100 year storm, whichever is the greater of (a) or (b); and (c) land within 200-feet of the mean annual high-water line of any year round river or stream.	Work is proposed within all areas.	Approved.
Section 2.3 Supporting Documents	- Wildlife habitat assessment when altering areas within 25' buffer - Alternatives assessment when impacting 25' buffer	Work is proposed within the 25' buffer of the wetland resource area.	Approved.
WAIVERS SUBDIVISION RULES AND REGULATIONS BYLAW OF THE TOWN OF WALPOLE			
Rules and Regulations Governing the Subdivision of Land		The proposed development has been submitted as a Comprehensive Permit Application and shall be reviewed under in accordance with all Chapter 40B rules and regulations. As such, it is a 40B development and not a residential subdivision. However, the Applicant has included this waiver only if the Town has a	Not Applicable.

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SECTION	DESCRIPTION	WAIVER	NOTES
		different interpretation as to the bylaw's applicability in this instance.	

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Exhibit "B" – Memorandum of Agreement

MEMORANDUM OF AGREEMENT
1015 East Street, Walpole
November 8, 2022

This Agreement (“Agreement”) is entered into by and between KIG/Silverstrand Walpole LLC (“Developer”), with a usual place of business at 257 Hillside Avenue, Needham, MA 02494, and the Town of Walpole, a municipal corporation organized under the laws of the Commonwealth of Massachusetts, with a usual place of business at 135 School St., Walpole, MA (“Town”), acting by and through its duly elected Select Board, regarding the proposed Local Initiative Program development at 1015 East Street, Walpole, MA, said property shown on Walpole’s Assessor’s maps as Parcel 25-164 consisting of 67,329 square feet more or less (“Property”), furthermore the developer also placed under contract lots 25-165 (989 East St.) and 25-166 (981 East St.) (“Secondary Property”) for inclusion in the development of said parcel(s) into affordable and market rate rental housing and further to be managed by a professional property management company with extensive experience with multi-family properties, with the Developer, Town and Select Board collectively referred to herein as the “Parties.” Prior to the issuance of any certificate of occupancy, the Developer shall notify the Town in writing of the identity and contact information for the property management company and shall notify the Town of any changes thereto for as long as the project is subject to this Agreement.

WHEREAS, the Town has not yet achieved and seeks to achieve the goal of ten percent affordable housing as defined under the affordable housing statute and regulations, respectively, G.L. c. 40B, §§20-23 and 760 CMR 56.00;

WHEREAS, the Town has been certified by Department of Housing and Community Development (“DHCD”) as in compliance with its Housing Production Plan, thus placing the Town in a “safe harbor” until April 26, 2023;

WHEREAS, the Town desires to consider the approval of additional affordable housing to increase its affordable housing stock in an effort to reach ten percent;

WHEREAS, the Developer has submitted a Local Initiative Program (“LIP”) application to the Select Board for its review and approval, said application seeking approval of 142 units of rental housing, of which 25% shall be low and moderate income housing units, under G.L. c. 40B, §§20-23 (the “LIP Application”) as set forth in the LIP Application (the “Project”);

WHEREAS, the Property is currently owned by Gilmores, Inc. (“Owner”), and KIG/Silverstrand Walpole, LLC have executed a Purchase and Sale Agreement to acquire the Property from the Owner and have also executed a Purchase and Sale Agreement for the Secondary Property, currently owned by Station House, LLC ;

WHEREAS, the obligations and benefits as stated in this Agreement are contingent upon the Developer acquiring title to the Property from the Owner;

NOW THEREFORE, based upon good and valuable consideration, the receipt of which is hereby acknowledged by the Parties, the Parties agree as follows:

I. DEVELOPER'S UNDERTAKINGS

Upon approval of the LIP Application by the Select Board, Developer shall promptly, and in any event within ten business days of the Select Board signing the LIP Application, apply to DHCD for approval of a Local Initiative Program development on the Property, as set forth in its LIP Application. Upon issuance of a Project Eligibility Letter from DHCD, Developer shall promptly, and in any event within twenty business days, apply to the Zoning Board of Appeals ("ZBA") for a comprehensive permit for the Project in accordance with the LIP Application and this Agreement subject to any required changes by DHCD, whereas Select Board will provide a reasonable time-period to make these changes prior to applying to the ZBA.

- A. The Project shall consist of no more than 142 residential rental units, of which the maximum allowed by DHCD shall be targeted for local preference, and such marketing plan details to ensure this standard is met shall be filed prior to the issuance of any occupancy permit. The Project shall be constructed in accordance with the LIP Application and this Agreement.

- B. The 142 residential rental units shall consist of the following mix of bedrooms:

Studio	15 units
One Bedroom:	87 units
Two Bedrooms:	26 units
Three Bedrooms:	14 units

However, such distribution may be adjusted based on DHCD requirements and discussion with Town Administrator and shall require modification of this Agreement.

- C. Developer agrees to pay the Town a total of \$1,100,000 ("Project Costs") comprising sewer and water connection fees, and sidewalk and roadway improvements, traffic, and Project related mitigation payments.
 - 1. This Project Costs encompass the required Town sewer and water connection fees ("Water & Sewer Connection Fee") as follows:
 - i. \$300,000 - water connection fees
 - ii. \$200,000 - sewer connection fees

The above constitutes the total Water & Sewer Connection Fee to be paid for this Project, but shall not include standard Water & Sewer use fees.

- 2. The Project Costs include foreseeable mitigation funds for impacts upon the Town incurred as a result of the Project ("Mitigation Funds"), in addition to and separate from the Water & Sewer Connection Fees. Mitigation Funds shall include funds to design, construct and reconstruct sidewalks along Elm Street; funds towards traffic mitigation as identified during the ZBA hearings; funds to pave the roadway on East Street between Main Street and Elm St. and install sidewalks on the south side of East Street along the same roadway,

and funds for traffic mitigation at the Elm St. School. For the sake of clarity, there shall be no additional Project Costs to construct this Project, other than standard Building Permit Fees.

Payment of the Mitigation Funds shall be undertaken as follows:

- i. \$50,000 shall be paid within sixty (60) days of the issuance of a comprehensive permit that is in substantial conformity with the LIP Application and this Agreement (unless the comprehensive permit is appealed by a person that is not a party to this Agreement, in which case the payment shall be made when the comprehensive permit becomes final and all appeals have been exhausted and completed)
- ii. \$650,000 upon the date when the Building Permit application is filed by the Developer
- iii. \$400,000 will be paid prior to issuance of either a permanent or temporary Certificate of Occupancy for the Project.

It is the Town's intention that the Mitigation Funds are being provided to the Town for the specific purposes as outlined above as mitigation of the impacts incurred by the Town as a result of the Project.

3. The Developer acknowledges and agrees to its obligations herein stated and shall be bound in contract to such obligations, said obligations to be enforceable by a court of competent jurisdiction.
 4. The Parties agree that failure of the Developer to make payment of the amount specified in Item C.2.iii above will constitute grounds for rescission of any building permit(s) that have been issued for the Project and that no party will assert otherwise in any proceeding. Town building and other permit and inspectional fees shall be paid in full by the Developer.
- D. Twenty-five percent of the units shall be reserved for rental to low and moderate income tenants, in conformity with DHCD requirements such that these units qualify as low or moderate income housing units under G.L. c. 40B, §§20-23 (the "Affordable Units"). The Affordable Units at the Project shall be permanently restricted as affordable, and shall remain affordable so long as the Project continues to benefit from the comprehensive permit because the Project does not conform to zoning requirements.
- E. There shall be access from East St. as shown on the LIP Application plans. The entrance will comply with 527CMR1. The Developer will attempt to work with the owner of the abutting property (CVS plaza) to develop a walking path easement to allow for pedestrian access between the properties. If the Developer is unable to reach an agreement with the abutting property owner the walking path easement shall dead-end at the abutting property line in anticipation of future cooperation to preserve connectivity. And furthermore, the Developer will ensure the area is constructed to allow for an access way in the future. The building shall be fully sprinklered, including attic spaces and in the parking garage if necessary for the

parking lifts that have been proposed by the Developer. There shall be at least two elevators in the building which reach all occupied floors and are of sufficient size to accommodate a stretcher and two personnel. The developer agrees that the Secondary Property will be used to address the additional need for parking, landscape buffer, public safety access to the site and snow storage as was conceptually presented to the Select Board on November 8, 2022. The Select Board and Zoning Board will be provided with time to review the design of the entire project and provide comments and suggestions on the proposed layout during the Zoning Board's hearing process based on feedback from the Zoning Board and Peer review. The Developer will work with the Town Administrator to collect these comments through the design and through the Town's statutory Zoning Board hearing process

- F. The Property shall be subject to a permanent affordable housing restriction that shall be recorded after the Developer acquires title to the Property and before the first building permit is issued, but not before the final comprehensive permit is issued and all rights of appeal have been exhausted, which will require that the building created and the 142 units shall remain rental units and shall not be converted to permit individual ownership of individual units. The Town may also require that a separate permanent restrictive covenant providing for a right to enforce affordability restrictions in the event that the DHCD Affordable Housing Restriction is not sufficient.
- G. Developer shall provide the following information and satisfy the following design standards during the public hearing before the ZBA:
- i. Sight distances at the egress for the Project shall be designed in accordance with best engineering practices, using AASHTO specifications, and shall be established and maintained at all times.
 - ii. The Project shall comply with Massachusetts Stormwater Management Standards and Chapter 499, Stormwater Management and Erosion Control of the Town's General Bylaws.
 - iii. Developer shall provide a management plan that details a schedule of maintenance and inspections of all buildings structures, mechanical systems, and outdoor equipment and amenities subject to the availability of these items.
 - iv. If applicable the Developer shall comply with the 25 foot no disturb zone surrounding a wetlands resource area as set forth in Chapter 561 Wetland Protection of the Town's General Bylaws. If the Developer cannot comply with the 25 foot no disturb zone in a small section of the property, the Developer will review the deviation with the Community Development Director to assess consistency with the original plan. The Community

Development Director will provide advice to the Town Administrator as to whether the proposed modification is material or substantial under Section II.2 of this Agreement. Any determination by the Director, Town Administrator, or Select Board as to whether such deviation requires modification of this Agreement shall not affect whether the plans are in compliance with Chapter 561 Wetland Protection of the Town's General Bylaws.)

- v. Developer agrees not to request any modification to this Agreement or to any comprehensive permit granted for this Project that would convert the rental units to condominiums.

- H. Developer agrees that it shall not assert to the ZBA or to the Housing Appeals Committee or to any other entity that the payment of any of the improvements or costs detailed in this agreement causes or contributes towards causing the Project to be uneconomic under G.L. c. 40B or 760 CMR 56.00, et seq., provided that all of the terms of this Agreement are satisfied.

- I. The obligations hereunder shall be enforceable only if a comprehensive permit is granted in substantial conformity with the LIP Application and takes final effect without altering the terms and conditions of this Agreement. If there are changes to the Project in the future that are not detailed in this Agreement, then Developer shall return to the Select Board to seek to amend this Agreement.

- J. Commencement of construction of the Project shall begin no later than 24 months from the date the comprehensive permit is recorded as defined in 760 CMR 56.03(2)(b).1. (unless the comprehensive permit is appealed by a person that is not a party to this Agreement, in which case construction shall commence six months after the comprehensive permit becomes final and all appeals have been exhausted and completed) The Developer agrees to file the necessary paperwork with the Building Commissioner to obtain the necessary building permits within 12 months of recording the comprehensive permit is recorded as defined in 760 CMR 56.03(2)(b).1, subject to the Developers election to extend this up to 6 additional months with notice up to 30 days prior to the end of the 12-month period. Developer will record the decision at the Registry of Deeds no later than 7 days after a certificate of no appeal has been issued by the Walpole Town Clerk. Developer shall make diligent efforts to ensure that construction of the Project continues without interruption or unreasonable delay so as to satisfy the requirements of 760 CMR 56.03(2)(c) for the units to be counted and remain on the Town's Subsidized Housing Inventory as maintained by DHCD.

- K. Developer shall cooperate with the Town and in a timely manner, provide the Town Administrator with all relevant information and material to support applications by the Town to DHCD to add the Project's units to the Subsidized Housing Inventory (SHI).

- L. Developer shall pay all reasonable monitoring fees required by DHCD and enumerated in the Regulatory Agreement to be executed with the Town and DHCD. If DHCD discontinues monitoring this project, and the Town is required to take on that role, then the Developer will pay such monitoring fees which are consistent with those specified in the Regulatory Agreement to the Town or other entity which acts as Monitoring Agent.
- M. Developer shall place a prohibition in each lease for each rental unit that strictly prohibits off road recreational motorized vehicles, including mopeds, motor homes, any unlicensed and derelict vehicles, or boats, and on-site boat and vehicle repairs of any type, unless prohibited by law. These restrictions shall be strictly enforced by the management.
- N. Developer agrees that this Agreement shall bind it and its successors in interest and that the Town may record a Notice of this Agreement against the Property once the Developer takes title to the Property and the comprehensive permit has been issued.

II. TOWN'S UNDERTAKINGS

- 1. The Select Board support and will continue to support the Project as presented by the Developer and as subject to this Memorandum of Agreement including, but not limited to signing the LIP Application to be submitted to DHCD.
- 2. The Developer shall notify the Town Administrator, Building Commissioner and the Community Development Director of any proposed changes to the Project. The Town Administrator shall review and inform the Developer within seven business days of receipt of said proposed changes as to whether the proposed changes require modification of this Agreement or would cause the Select Board to exercise its rights to cancel this Agreement as provided for hereunder. The Parties agree that only material or substantial changes to the Project that affect or alter any provision of this Agreement or are inconsistent with the LIP Application shall require modification of this Agreement. The Parties agree that the Town Administrator shall have the ability to approve proposed changes to the Project, for the purposes of this Agreement, which he finds are not material or substantial. Should the Town Administrator deem the changes to be material or substantial, the Developer will have 30 days to seek the approval from the Select Board on such changes.

If DHCD proposes any material or substantial changes to this Project which affect or alter any provision of this Agreement, the Developer shall present such change to the Town Administrator Building Commissioner and the Community Development Director. The Town Administrator shall assess consistency with the original LIP application and make a determination if the Developer needs to seek the approval of the Select Board, and/or if the Parties shall negotiate any amendments to this Agreement.

III. PARTIES' RIGHT TO CANCELLATION

- 1. If the comprehensive permit issued for the Project: (a) increases the number of units or bedrooms other than as agreed to above; (b) decreases the number of Affordable Units agreed to above; or (c) substantially changes the location and/or size and height of the

buildings as shown on the Plans presented to the Select Board by Developer and filed with the LIP Application, the Select Board may, within thirty days of issuance of the comprehensive permit, give written notice of such inconsistency to Developer, and if Developer fails to initiate and diligently pursue a conforming amendment to the comprehensive permit, the Select Board may withdraw its support of the LIP Application and the Project by providing written notice of the same to Developer and DHCD. However, if the Developer initiates and diligently pursues a conforming amendment to the comprehensive permit per the request of the Select Board and the Zoning Board of Appeals does not grant the comprehensive permit amendment, then the comprehensive permit as originally approved is deemed to be valid and the Select Board may not withdraw its support of the LIP Application and the Project.

2. If the Property is not conveyed to the Developer or an affiliated entity controlled by the principals of KIG/Silverstrand Walpole LLC, this Agreement is deemed null and void.

IV. MISCELLANEOUS

1. Any breach of this Agreement shall be enforceable by the Parties.
2. Any amendment to this Agreement shall occur only pursuant to a written amendment that is duly authorized by the Parties and then duly executed by the Parties.
3. The Parties acknowledge they had advice of counsel before executing the Agreement.
4. Notice of this Agreement may be recorded by either party when or after the application for the comprehensive permit is submitted, but a discharge shall be provided if the Agreement is cancelled as provided for hereunder; otherwise this Agreement shall bind all of Developer's successors in interest including any transferee pursuant to 760 CMR 56.05(12)(b).
5. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts and Developer and its successors in interest agree to submit to the jurisdiction of any appropriate Massachusetts court for the adjudication of any dispute arising out of this Agreement.
6. This Agreement may be executed in any number of counterparts, which together shall constitute one instrument. An electronic signature on this Agreement shall have the same effect as an original.
7. All notices and other communications required or permitted to be given under or by reason of this Agreement shall be in writing and may be delivered by electronic mail, facsimile, US mail or overnight mail. Notices, demands, and communications will, unless another address is specified in writing, be sent to the persons and at the addresses indicated below:

For the Select Board: KP Law, P.C.

101 Arch Street
Boston, MA 02110

With a copy to the Town Administrator and Select Board Chair:
Town Administrator
135 School Street
Walpole MA 02081

To Developer: KIG/Silverstrand Walpole LLC
C/O Justin Krebs
257 Hillside Avenue
Needham, MA. 02494

With a copy to: John Balboni
Nelson Mullins
One Financial Center, Suite 3500
Boston, MA 02111

Jason A. Pithie, Esq.
Pithie & Associates, P.C.
158 Pleasant Street
South Weymouth, MA 02190

IN WITNESS, the parties hereunto set their hands and fixed their seals as of November 9, 2022.

By: **Walpole Select Board***

[Signature]
James O'Neil, Chair

[Signature]
Glenn Maffei, Vice Chair

[Signature]
Allyson Hamilton, Clerk

[Signature]
Mark Gallivan, Member

[Signature]
Benjamin Barrett, Member

*Pursuant to a vote taken by the Select Board on November 8, 2022.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, SS 4th
On this 9 day of November, 2022, before me, the undersigned Notary Public, personally appeared All members of the Walpole Select Board, as aforesaid, who proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose on behalf of the Town of Walpole.

[Signature]
(Official Signature and Seal of Notary)
Comm Expires JULY 5, 2024

Developer
KIG/Silverstrand Walpole LLC

By: [Signature]
Manager

COMMONWEALTH OF MASSACHUSETTS SC
SS. SOUTH CAROLINA
Berkeley County

On this 10th day of NOVEMBER, 2022, before me, the undersigned Notary Public, personally appeared JUSTIN D. KREBS, as Manager of KIG/Silverstrand Walpole LLC, LLC who proved to me through satisfactory evidence of identification, which was SC Drivers Lic, to be the person whose name is signed above, and acknowledged s/he signed it voluntarily for its stated purpose on behalf of KIG/Silverstrand Walpole LLC

(Official Signature and Seal of Notary)



My Commission
Expires: 11/04/2026

[Signature]
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