

WALL STREET DEVELOPMENT CORP.
REAL ESTATE DEVELOPERS

**VIA EMAIL AND
CERTIFIED MAIL RETURN RECEIPT REQUESTED**

October 31, 2021

Ms. Caroline "Chris" Kluchman
Deputy Director – Division of Community Service
Department of Housing & Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

RE: Town of Walpole – Housing Production Plan
Certification Approval dated September 10, 2021

Dear Deputy Director Kluchman:

Wall Street Development Corp. ("Wall Street") is in receipt of a letter from the Town of Walpole Zoning Board of Appeals (the "ZBA") dated October 18, 2021 (copy attached) which represents notice to Louis Petrozzi that the ZBA:

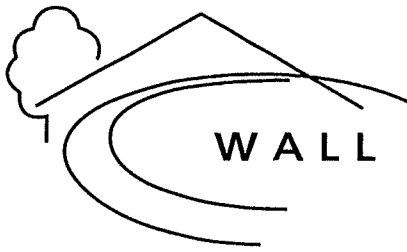
"voted to invoke and declare that denial of the Darwin Commons 40B application is consistent with local needs as defined in 760 CMR 56.03(1)(b) and 56.03(4) due to receipt of a Certification of Approval, dated September 10, 2021, issued by the Massachusetts Department of Housing and Community Development, certifying the Town of Walpole's compliance with its Housing Production Plan, approved for a two-year period running from April 27, 2021 to April 26, 2023."

The letter further states that:

"The basis for the Board's determination is the Town of Walpole ("Town") has achieved one of the statutory minima standards set forth under G.L. c. 40B, sec. 20-23 and 760 CMR 56.03(1)(b) and (4) because the Department of Housing and Community Development ("DHCD") has certified compliance with an approved HPP for Walpole is enclosed herewith."



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WALL STREET DEVELOPMENT CORP.
REAL ESTATE DEVELOPERS

Ms. Caroline "Chris" Kluchman
Deputy Director – Division of Community Service
Department of Housing & Community Development
October 31, 2021 – Page 2

In accordance with the provisions of 760 CMR 56.03(8) please accept this letter as a formal appeal of the decision of the ZBA and the Certification Approval issued by DHCD on September 10, 2021. The basis for Wall Street's appeal with associated documentation is attached hereto.


Thank you for your attention and consideration in this matter.

Sincerely,

WALL STREET DEVELOPMENT CORP.

Louis Petrozzi
Louis Petrozzi, President

- cc. Town of Walpole – Zoning Board of Appeals
Mr. Jim Johnson – Walpole Town Administrator
Mr. Patrick Deschenes – Walpole Director of Economic Development
Mr. Jay Talerman, Esq. – Meade, Talerman & Costa
Mr. Dean Harrison – 40B Consultant
Mr. Philip DiMartino – DHCD
Ms. Catherine Racer – DHCD
Ms. Alana Murphy – DHCD



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**WALL STREET DEVELOPMENT CORP.
APPEAL OF NOTICE OF SAFE HARBOR
ISSUED BY
WALPOLE ZONING BOARD OF APPEALS
PURSUANT TO 760 CMR 56.03(8)**

By:

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October 31, 2021

**WALL STREET DEVELOPMENT CORP.
APPEAL OF NOTICE OF SAFE HARBOR
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TABLE OF CONTENTS

	<u>Description</u>	<u>Page</u>
1.	INTRODUCTION	1
2.	REQUEST FOR DHCD CERTIFICATION	3
3.	FAILURE TO OPEN PUBLIC HEARING	9
4.	REGULATORY FRAMEWORK	10
5.	MEETING OBJECTIVES OF HOUSING PRODUCTION PLAN	15
6.	REQUESTS FOR RELIEF	23
	EXHIBITS I - XIV	

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

**APPEAL OF THE WALPOLE ZONING BOARD OF APPEALS
NOTICE OF SAFE HARBOR**

**PURSUANT TO THE PROVISIONS OF THE REGULATIONS AT 760
CMR 56.03(8)**

**APPELLANT – WALL STREET DEVELOPMENT CORP
OCTOBER 31, 2021**

**SECTION I
INTRODUCTION**

This is an appeal pursuant to the Regulations at M.G.L. c. 40B, sec. 20-23 and the Regulations promulgated by the Department of Housing and Community Development at 760 CMR 56.00, specifically 760 CMR 56.03(8) (the “Regulations”), from a decision of the Walpole Zoning Board of Appeals (the “ZBA”) in a letter dated October 18, 2021 which represents written Notice of Safe Harbor pursuant to 760 CMR 56.03 (1)(b) and (8) (the “Safe Harbor Letter”). A copy of the Safe Harbor Letter is attached as **Exhibit I**.

This is an appeal pursuant to the Regulations at 760 CMR 56.03(8) regarding the following issues:

- a) Whether DHCD’s Certification Approval issued on September 10, 2021 (the “DHCD Certification”) finding that the project for which certification was requested by the Town of Walpole (the “Town”) was eligible for inclusion in the Subsidized Housing Inventory for the Town (a copy of the DHCD Certification is attached as **Exhibit II**);
- b) Whether DHCD’s Certification for the period April 27, 2021 to April 26, 2023 was awarded to the Town in accordance with the proper application of the Regulations;
- c) Whether the Town met the requirements of 760 CMR 56.03(5) regarding recent progress toward a municipality’s Statutory Minima;
- d) Whether Section II.A.2.b.(1) of the DHCD Guidelines up-dated December, 2014 is valid and consistent with the legislative authority provided in M.G.L. c. 40B, sec. 20-23;

e) Whether DHCD's certification is a valid basis for the Town to deny the application for Comprehensive Permit filed by Wall Street Development Corp. ("Wall Street") electronically on September 12, 2021, and

f) Whether the ZBA's failure to "open a public hearing within 30 days of its receipt of a complete application ..." in violation of 760 CMR 56.05(3) is deemed to be constructive approval of Wall Street's application for comprehensive permit.

SECTION II
REQUEST FOR DHCD CERTIFICATION

1. On or about January 6, 2020, a single application for hearing was filed with the ZBA by 55 SS LLC (the “Applicant”) seeking a comprehensive permit (the 40B Application”) to allow “construction of 240 rental units and 60 ownership units as more particularly described in the attached application.” (the “Project”). A copy of said application is attached as **Exhibit III**.

2. The 40B Application included a narrative of the Project that further described the Project as “The Cedar Crossing and Cedar Edge Walpole 40B will consist of one project containing a 240 rental units sub-project called Cedar Crossing and a 60-unit ownership sub-project called Cedar Edge Condominiums.” A copy of the Project narrative is attached as **Exhibit IV**.

3. Also included with the 40B Application were various site development plans showing that access to the Project site would be from a single access drive off Summer Street in Walpole. The access drive would provide a common access, utilities and other infrastructure to service the combined rental units and home ownership areas of the Project. Attached as **Exhibit V** is a copy of the site development plan.

4. The ZBA opened one public hearing for the Project (continued over many months) and issued a single decision dated April 27, 2021 which stated, in Paragraph No. 1, the following:

“An application for a Comprehensive Permit was submitted by 55 SS, LLC (“Applicant”) to the Walpole Zoning Board of Appeals (“Board”) on January 15, 2020. As originally proposed by the Applicant, the project consisted of the construction of two-hundred and forty (240) rental apartments and sixty (60) single-family home ownership units (the “Project”) totaling 300 units on property located at 51, 53 and 55 Summer Street, Walpole, Massachusetts (the “Property”). The rental portion of the Project, labeled “Cedar Crossing”, consisted of four (4) four-story buildings (each containing forty-eight (48) units with parking under) and forty-eight (48) rental townhomes. The rental apartments would consist of one-hundred and twelve (112) one-bedroom units and eighty (80) two-bedroom

units, and the rental townhomes will consist of twenty-four (24) two-bedroom units and twenty-four (24) three-bedroom units. The single-family home ownership portion of the Project, labeled "Cedar Edge", consists of three-bedroom single-family homes.

Attached as **Exhibit VI** is a copy of Paragraph No. 1 of the April 27, 2021 decision.

5. The Applicant filed an appeal of the ZBA's decision with the Housing Appeals Committee (the "HAC") which referred the matter to mediation. In connection with the mediation process, the HAC issued "Decision of Stipulation and Entry of Judgement" dated August 20, 2021 (the "HAC Stipulation"). The HAC Stipulation also stated "... 55 SS, LLC applied to the Walpole Zoning Board of Appeals for a comprehensive permit to create 300 units in a mixed rental and ownership development to be located at 51, 53 and 55 Summer Street, Walpole, Massachusetts. Twenty-five percent of the units were to be affordable units subsidized by the Massachusetts Housing finance Agency." Again, the HAC Stipulation is for a single comprehensive permit "in a mixed rental and ownership development." Attached, as **Exhibit VII** is a copy of Page 1 of the HAC Stipulation.

6. Following the HAC Stipulation, the ZBA issued a revised comprehensive permit consistent with the HAC Stipulation and the results of the mediation. The revised comprehensive permit decision in Paragraph No. 1, mirrored the description of the Project as described in Paragraph No. 4, above. d by the ZBA. dated August 20, 2021. Again, the revised decision was a single decision for one project.

7. On or about August 26, 2021, the Town made a request in writing to DHCD for a "certification of compliance of the Town's Housing Production Plan based on the ZBA decision for the 55 Summer Street, 268-unit mixed-income rental and homeownership housing development known as Cedar Crossing and Cedar Edge." The Town further states "226 units

from this development will count for our SHI according to 760 CMR 56.03(2).” Again, the Town request references a “single” development. Attached as **Exhibit VIII** is a copy of the Town’s letter requesting certification.

8. Attached to the Town’s letter requesting certification were two (2) separate forms entitled “Subsidized Housing Inventory: Requesting New Units Form” submitted by Patrick Deschenes, the Town’s Director of Community & Economic Development. Despite the ZBA’s decision (and revised decision) approving a single project, the Town unilaterally decided to the represent to DHCD that the project was two (2) separate projects, a rental project and a homeownership project. This was done by the Town in an attempt to manipulate the number of units that could be counted to the Town’s subsidized housing inventory. Attached with **Exhibit IX** is a copy of the “New Unit Forms” submitted by the Town.

9. The Town’s representation that “226 units from this development will count for our SHI according to 760 CMR 56.03(2)” is presumed to represent the compliance with Section II.A.2.b.(1) of the DHCD Guidelines that states, in part, the following:

b. Rental & Assisted Living Facility

(1) General - In a rental or ALF development, if at least 25% of units are to be occupied by Income Eligible Households earning 80% or less than the area median income, or alternatively, if at least 20% of units are to be occupied by households earning 50% or less of area median income, and meet all criteria outlined in Section 1, then all of the units in the rental development shall be eligible for inclusion on the SHI. [emphasis added] In determining the number of units required to satisfy either percentage threshold, fractional numbers shall be rounded up to the nearest whole number (e.g.: in a 51unit development, one would restrict 13 units in order to meet the 25% standard).

If fewer than the aforementioned percentages of units in the development are so restricted, then only the units that meet the requirements of Section II.A.1 shall be included.

Attached as **Exhibit X** is a copy of the Section II.A.2.b.(1) of the DHCD Guidelines.

10. In a letter dated September 10, 2021, DHCD issued a “Certification Approval” based on the Town’s representation that the Town was in compliance with its Housing Production Plan (“HPP”). DHCD’s certification includes Finding No. 2 which states “The project for which certification was requested is known as Cedar Crossing/Cedar Edge (SHI ID# 10582) which consists of 226 SHI units.” Similarly, DHCD’s review and evaluation was based on a single project.

11. The Town represented in its request for certification that the Project consisted of a 268-unit mixed-income rental and homeownership housing development ...” as approved by the revised ZBA decision. Twenty-five percent (25%) of the approved units would allow for sixty-seven (67) units eligible to be counted toward the Town’s SHI, yet DHCD’s Certification allowed for 226 units to be counted toward the Town’s SHI. It is apparent DHCD counted 100% of the proposed rental units in the Project by applying Section II.A.2.b.(1) of the DHCD Guidelines. Quite frankly, the wording of Section II.A.2.b.(1) “shall be eligible for inclusion” does not make it automatic that 100% of rental units will be counted toward the Town’s SHI, it means “eligible for inclusion” and, therefore a discretionary determination. Yet, the Town and DHCD have simply presumed this provision requires no further review or evaluation.

12. Additionally, as a single Project consisting of a mix of both rental and homeownership units, the Project does not qualify under the provisions of Section II.A.2.b.(1) of the DHCD Guidelines. Therefore, the number of units to be counted toward the Town’s SHI would be 25% of the total units in the Project or 67 units. DHCD’s Certification improperly allows for

two hundred twenty-six units (226) eligible to be counted toward the Town's SHI (84% of the total number of units).

13. In addition, the DHCD Certification was based on the use of outdated statistics from the 2010 Census "Year-Round Housing Units". In order to comply with the "Computation of Statutory Minima" as provided for in 760 CMR 56.03(3)(a), the total number of housing units shall be that total number of year-round units enumerated for the city or town in the latest available United States Census. DHCD's acceptance and use of the Town's statistics from 11 years ago to base its certification is not in compliance with the Regulations. Moreover, other housing statistics, i.e. number of building permits issued since 2010 or other town-generated information, could have been requested by DHCD prior to the granting of the certification. DHCD failed to use reasonable efforts or conduct sufficient due diligence to determine if the Town was entitled to the certification issued on September 10, 2021.

14. DHCD issued a document entitled "Guidelines – G.L. C. 40B Comprehensive Permit Projects" (updated in December, 2014). The objective of these guidelines is to provide balanced advice to local officials to help make sound local permitting decisions pursuant to C. 40B., not to establish new statutory performance standards. It seems that DHCD's certification of the Town's SHI erroneously applied certain provisions of these Guidelines by counting 100% of the units proposed for rental toward the Town's SHI. This counting of 100% of the rental units in the project is not authorized by C. 40B and therefore, said units in excess of the 25% affordable units are not eligible to be included in the Town's SHI.

15. Moreover, in light of the historical misappropriation of the provisions of Section II.A.2.b.(1) of the DHCD Guidelines by DHCD, the Town's SHI has been mis-reported. Based upon the most available report of the Town's C. 40B SHI, 882 units are counted toward the Town's SHI. Attached as **Exhibit XI** is a copy of the available report of the Town's 40B SHI. Of these 882 units, only twenty-one (21) units (including the subject project) are homeownership units that are counted toward SHI, the balance of the units are all rental units. Despite only 25% of the rental units being offered as affordable (215 units), DHCD under the provisions of Section II.A.2.b.(1) of the Guidelines has allowed 100% of the total rental units to be counted toward the Town's SHI.

16. DHCD's practice of allowing 100% of rental units to be counted toward the Town's SHI is beyond the "statutory minima" established under the C. 40B statute.

17. Based on the foregoing information, the Town's SHI should include only 25% of the rental units in the Town, or 215 units. With the inclusion of the 21 homeownership units, the Town's SHI should be reported as 236 units, not 882 units. This results in only 2.6% of the 2010 Census of Year-Round Housing Units in the Town, substantially below the 10% SHI statutory minima.

SECTION III
FAILURE TO OPEN A PUBLIC HEARING

18. On September 12, 2021, Wall Street Development Corp. (“Wall Street”) filed electronically a complete application for comprehensive permit for the proposed development of a 28-unit townhouse development entitled Darwin Commons on the ZBA’s online permit website. The proposed development of Darwin Commons is intended to be a new residential “homeownership” townhouse community planned for 3.45 acres of land off Darwin Lane in Walpole, MA. Of the proposed 28 townhouses, seven (7) townhouses (25%) would be affordable homeownership opportunities.

19. On October 13, 2021, the ZBA opened a public hearing on Wall Street’s application for a comprehensive permit for the Darwin Commons development. The Regulations at 760 CMR 56.05(3) provides that “The Board shall open a hearing within 30 days of its receipt of a complete application, and it shall thereafter pursue the hearing diligently.” The public hearing opened by the ZBA did not meet the 30-day provision and therefore the ZBA is in violation of the Regulations. Moreover, as a result of the ZBA’s failure to open a timely public hearing, the ZBA has waived its right to invoke the provisions outlined in 760 CMR 56.03(1)(b) and 56.03(4) due to receipt of a Certification of Approval dated September 10, 2021.

20. The ZBA’s failure to “open a public hearing within 30 days of its receipt of a complete application ...” is a willful and deliberate breach of 760 CMR 56.05(3) and shall be deemed constructive approval of Wall Street’s application for comprehensive permit.

SECTION IV
REGULATORY FRAMEWORK

21. The Massachusetts Comprehensive Permit Law M.G.L. c. 40B §§ 20-23, enacted as Ch. 774 of the Acts 1969, also known as the Comprehensive Permit Statute, Ch. 40B or the “Anti-Snob” Zoning Act, (hereinafter C. 40B”) encourages the Construction of Affordable Housing using locally granted permits.

22. C. 40B was enacted to help address the shortage of affordable housing statewide by reducing unnecessary barriers created by the local approval process, local zoning and other restrictions. A “Comprehensive Permit” is an all-encompassing permit which subsumes all permits and approvals normally issued by other local boards.

23. The C. 40B permit typically allows a developer to build at a higher density than is normally allowed under a municipality’s zoning laws. The law enables a local Zoning Board of Appeals (ZBA), in consultation with other local boards and officials, to grant a single permit to an eligible developer pursuing a development of low-or moderate-income housing. C. 40B requires all communities to use a streamlined review process to develop such housing, including request for zoning and other regulatory waivers.

24. C. 40B, sec. 20 establishes specific, allowable “statutory minima” as defined in “Consistent with Local Needs” as follows:

"Consistent with local needs", requirements and regulations shall be considered consistent with local needs if they are reasonable in view of the regional need [emphasis added] for low and moderate income housing considered with the number of low income persons in the city or town affected and the need to protect the health or safety of the occupants of the proposed housing or of the residents of the city or town, to promote better site and building design in relation to the surroundings, or to preserve open spaces, and if such requirements and regulations are applied as equally as possible to both subsidized and unsubsidized housing. Requirements or regulations shall be consistent with local needs when imposed by

a board of zoning appeals after comprehensive hearing in a city or town where (1) low or moderate income housing exists which is in excess of ten per cent of the housing units reported in the latest federal decennial census of the city or town or on sites comprising one and one half per cent or more of the total land area zoned for residential, commercial or industrial use or (2) the application before the board would result in the commencement of construction of such housing on sites comprising more than three tenths of one per cent of such land area or ten acres, whichever is larger, in any one calendar year; provided, however, that land area owned by the United States, the commonwealth or any political subdivision thereof, or any public authority shall be excluded from the total land area referred to above when making such determination of consistency with local needs.

Consistent with local needs means balancing the regional need for affordable housing with local public health, safety and welfare concerns.

25. The Statutory Minima established by C. 40B, sec. 20 are as follows:

Housing Unit Minimum (10% of total housing units)

SHI-eligible units > 10% of total housing units.

General Land Area Minimum (1.5% of total land area)

Sites of SHI-eligible units (pro-rated for partial sites) comprise >1.5% of the total land area zoned for residential or commercial or industrial use.

Annual Land Area Minimum (0.3% or 10 acres/year)

Construction starts in any calendar year of Low/Moderate Income Housing on sites comprising larger of >0.3% of land area or 10 acres.

A ZBA decision to deny or condition a comprehensive permit may be upheld if one of the above criteria has been met as of the date of the project's application.

26. The Regulations at 760 CMR 56.00 have been adopted to implement the purpose and statutory intent of C. 40B. More specifically, 760 CMR 56.03 establishes methods to measure the progress a community is making toward its affordable housing goals.

27. The Regulations at 760 CMR 56.03 (4) a.- f., with respect to the preparation of a Housing Production Plan (“HPP”), attempts to establish a new mechanism to allow a community to meet the “statutory minima” established in C. 40B. Moreover, the Regulations seek to establish additional grounds on which a ZBA decision to deny or condition a comprehensive permit may be permitted.

28. It is well settled case law that regulations are invalid when the agency utilizes powers that are "neither expressly nor impliedly granted by statute." In this instance, there is clearly no provision in C. 40B that authorizes DHCD to create, through regulation or guidelines, additional provision for a municipality to satisfy the “statutory minima” such as the preparation of a HPP as provided for in 760 CMR 56.03 (4) a.- f. Very simply, C. 40B does not delegate expressly to DHCD, or any other entity, the authority to modify or supplement the methods or means to meet the statutory minima created in C. 40B.

29. The DHCD Guidelines, specifically the provisions in of Section II.A.2.b.(1) that “all units in a rental development shall be eligible for inclusion on” a municipality’s SHI is a similar provision that attempts to amend C. 40B, without authority, by adding a measure that a municipality may use to satisfy the statutory minima.

30. Since the Certification Approval issued to the Town by DHCD on September 10, 2021 clearly indicates that said certification approval was based on the Town’s purported compliance with its HPP, the certification approval is of no force and effect to be used by the ZBA as a reason to deny Wall Street’s application for comprehensive permit for Darwin Commons.

31. As previously mentioned, the objective of the DHCD Guidelines is to provide balanced advice to local officials to help make sound local permitting decisions pursuant to C. 40B, not to establish new statutory performance or measurement standards to determine the number of SHI in a municipality. In recent years DHCD has allowed municipalities to count 100% of all rental units in a project toward the municipality's SHI, rather than the true, actual number (25%) of affordable rental units being provided.

32. The application of Section II.A.2.b.(1) of the DHCD guidelines has, in fact, resulted in less affordable housing being built. By allowing a municipality to include 100% of rental units toward its SHI, it permits a municipality to reach the 10% statutory minima without complying with the C. 40B. Municipalities then use the "eligibility rental units" provision to stop or deny other C. 40B homeownership projects by invoking so-called "safe harbor" provisions. The end result is that less "net affordable units" both rental and homeownership are being or will be developed.

33. Notwithstanding the clear violation of the statutory provisions and intent of C.40B, the consequences of DHCD's continued practice of allowing Section II.A.2.b.(1) to be abused by municipalities not only prevents the successful development of needed affordable housing in the immediate future but allows municipalities to ignore and avoid the responsibility of meeting the 10% statutory minima of affordable housing mandated in the municipality under C. 40B.

34. From the perspective of meeting the regional housing need called for in C. 40B, DHCD has provided the most available recent SHI reports for the surrounding town of Norwood, Canton, Medfield, Norfolk, Sharon and Wrentham. The reports can be summarized as follows:

<u>Town</u>	<u>No. of SHI Units</u>	<u>No. of Rental/ Affordable Units</u>	<u>No. of Homeownership Units</u>	<u>SHI %</u>
Walpole	882	861 (215)	21	9.82
Norwood	1,234	1,224 (306)	10	9.92
Canton	1,159	1,108 (277)	51	13.31
Medfield	406	375 (94)	31	9.62
Norfolk	187	109 (27)	78	6.01
Sharon	690	688 (172)	2	10.76
Wrentham	<u>438</u>	<u>400 (100)</u>	<u>38</u>	11.46
Totals	4,996	4,765 (95.4%)	231 (4.6%)	

Attached as **Exhibit XII** is a copy of the above referenced SHI reports. Based on the number of SHI for the surrounding towns, as well as the town of Walpole, it is clear that the regional housing need for “affordable homeownership” units is not being met.

35. DHCD’s Guidelines, Section II.A.2.b.(1), has promoted a policy of incentivizing the development of rental units, while allowing municipalities to reach the 10% statutory minima that further results in municipalities being allowed to reject or deny other needed affordable housing projects offering homeownership opportunities. This continued refusal by municipalities to consider applications to create additional affordable housing simply because DHCD has awarded them with an erroneous certification of meeting the 10% statutory minima, or other non-legislative “safe harbor” measures, is contrary to the purpose and intent of C. 40B. Perpetuating this set of circumstances will further exasperate the need to provide for a diversity of affordable housing alternatives, including homeownership opportunities.

36.

SECTION V
MEETING THE HOUSING NEEDS OF WALPOLE
HOUSING PRODUCTION PLAN

37. Notwithstanding the lack of statutory authority, the Regulations also include at 760 CMR 56.03(4) provisions for communities to adopt a Housing Production Plan (“HPP”) to assess housing needs, affordable housing goals and implementation strategies. The Town adopted its first HPP in 2013 and later up-dated its HPP in 2019.

38. As stated in the DHCD guidelines: “A Housing Production Plan (HPP) in 760 CMR 56.03 (4) is a proactive strategy for planning and developing affordable housing.... The HPP will assist communities to plan for low-and-moderate income residents by providing a diverse housing supply [emphasis added]. The plan should provide a strategy by which affordable housing needs can be met in a manner consistent with MGL Chapter 40B regulations.” As clearly noted in the DHCD Guidelines, the HPP is a “strategy” and the goals and objectives municipalities outlined as part of that strategy are often arbitrary and subjective with very little means to measure or quantifiably assess the extent to which a municipality has satisfied any of its goals or objectives.

39. More importantly, however, 760 CMR 56.03(4) created non-legislative criteria for municipalities to measure progress toward meeting its affordable housing goals. In addition, upon a cursory review and “purported” approval of the HPP by DHCD, a municipality would become eligible pursuant to 760 CMR 56.03(4)(f) for a one-year certification if DHCD find the municipality has increased its number of “SHI Eligible Housing units in an amount equal to or greater than its 0.50% production goal for that calendar year” and if DHCD “finds that the municipality has increased its number of SHI Eligible Housing units in a calendar year by at least

1.0% of its total housing units, the certification shall be in effect for two years from its effective date.”

40. DHCD’s policy of rewarding municipalities for decades and decades of excessive and restrictive zoning regulations that prevented and obstructed the development of more affordable housing simply because the municipality produced a HPP that resulted in a minute number of affordable-housing being approved for development is simply inexcusable. In addition, allowing a municipality a reason to deny additional applications under C. 40B during this “certification” time period only rewards the municipality for its history of exclusionary zoning policy and regulations.

41. Based on the most recent report provided by DHCD regarding the number of SHI in the Town (as of the 2010 Census) there are 882 units that make up the Town’s SHI (this number includes the 226 units recently certified by DHCD). Of the 882 SHI units, only 21 or just 2.4% of the units were classified as affordable homeownership units. A copy of the SHI report is attached as **Exhibit XIII**.

42. As previously discussed, the DHCD Guidelines provide an incentive to municipalities to prepare an HPP and produce affordable housing. That incentive is “that all of the units in the rental development shall be eligible for inclusion in the SHI.” This incentive has led to the overwhelming number of rental units permitted and developed in the region, with only 4.6% being affordable homeownership opportunities.

43. The Town's 2019 HPP is an update of the HPP prepared by the Town in 2013. Since 2013, both HPP's outlined numerous goals and objectives to promote, create or facilitate the development of affordable housing in the Town. The Affordable Housing Goals in the Town's HPP are outlined as follows:

- i) Create affordable housing units compatible in size, scale and architecture with the prevailing character of Walpole.
- ii) Utilize local, state and federal resources and programs to develop and monitor affordable housing units.
- iii) Increase the number and quality of rental and ownership units for senior citizens.
- iv) Increase the supply of affordable homes for other residents with special needs such as veterans and/or persons with disabilities.
- v) Encourage the development of affordable housing for very low-income households.
- vi) Identify public and privately-owned property that can support housing development, particularly in areas close to existing services and amenities in Downtown and East Walpole.

44. Moreover, the Town's HPP provides an "overview of affordable housing goals" that states, in part, the following:

"Rising senior populations require a variety of housing options including traditional housing, assisted living, and other facilities for the elderly and frail elderly. The increase in the young adult population necessitates an increased supply of housing units that are affordable to entry-level buyers and renters. [emphasis added] In both cases, there is an indication that more buyers will be entry-level or retired workers who lack the wealth of late-career, working-age buyers.

In order to accommodate both populations, an increased supply of smaller and more affordable housing is required. [emphasis added] The housing needs of the two populations projected to increase are similar. Both require smaller units that are affordable to own or rent. Furthermore, the location of such units is more important than the size of their parcels. Therefore, developing these units in transit-oriented and pedestrian-friendly areas is essential.”

It is doubtful DHCD administered any serious due diligence to determine if the Town had made a measurable commitment to achieving the goals and objectives of the HPP since 2013 and 2019.

45. DHCD’s Certification Approval dated September 10, 2021 rewards the Town for its purported commitment to supporting and expanding the creation of affordable housing by its approval of the project located at 51, 53 and 55 Summer Street, Walpole. In light of the apparent fact that DHCD has not performed proper due diligence with respect to verifying the Town’s performance under both the 2013 and 2019 HPP, it would seem appropriate to provide some perspective regarding the Town’s record of implementing the strategies outlined in the HPP and reaching the goals outlined therein. Outlined below is a brief summary of the Town’s actual performance:

a. The Town created the Housing Partnership in 2009 (the “Partnership”) to initiate strategies to facilitate the creation of affordable housing options in the Town. In 2013, the Partnership initiated the Town’s initial Housing Production Plan (“HPP”). Since the initial HPP was adopted, the Partnership made no efforts to promote, develop or advocate strategies to facilitate the creation of affordable housing in the Town. In fact, the Partnership described its very existence as being “inactive”.

b. In April, 2019, the Town received approval from the Department of Housing and Community Development (DHCD) of its “updated” Housing Production Plan (the “2019 HPP”). In almost three years since the approval of the 2019 HPP the Town has not made any substantive efforts or proposals to implement these strategies.

c. The Partnership, however, spent substantially all of its time and efforts to formulate a proposal for an “inclusionary zoning bylaw” to be adopted at the 2019 Town Meeting. The Town Meeting failed to adopt this bylaw at both the 2019 and 2020 Town Meetings. The 2019 HPP simply serves as an empty representation of a housing strategy that exists only to provide a potential safe harbor for the Town in an effort to further regulate the approval of additional future affordable housing development in the Town.

d. Since the adoption of the 2013 and 2019 HPP, the Partnership has not proposed or advocated the development of any units of affordable housing on the many parcels of land owned by the Town. Nor has the Partnership advocated or supported any of the current applications for comprehensive permits pending with the Town. This lack of initiative or advocacy does not speak well for the Town’s so-called “commitment” to expanding affordable housing choices in the Town.

e. Over the past five (5) years the Town has proposed and constructed the following major projects in the Town:

<u>Project</u>	<u>Cost</u>
Police Station	\$ 10,000,000
Fire Station	14,900,000
Public Library	11,200,000
Senior Center	7,300,000
DPW Garage	3,900,000
Recreational Ball Fields	<u>6,200,000</u>
Total Costs:	\$ 53,500,000

Despite having allocated and spent over \$53 million on various facilities projects in the Town on Town-owned land, not one dollar or one square foot of land had been proposed, advocated or otherwise dedicated for the purpose of creating affordable housing on any number of properties owned by the Town.

f. In 2016, the Town acquired a 25-acre parcel of land known as Jarvis Farm. The purchase price of this property was in the vicinity of \$4.5 Million. Despite the acquisition of this land as “open space”, the Town did not even consider that a small portion of this land could be set aside for the purpose of creating affordable housing.

g. Over the past three years, four major residential projects filed applications with the Town’s Zoning Board and Planning Board seeking permits, variances and other approvals that resulted in the cumulative total of 644 residential dwelling units. Despite the applicants’ requests for a variety of variances and waivers from the Town’s zoning bylaws, neither the Planning Board nor Zoning

Board attempted to negotiate or request any level of affordable housing units be provided in exchange for, or as a condition of, approval of any of these projects.

h. In connection with Wall Street's application for site approval of a C. 40B development off Dupee Street, Wall Street inquired of the Town to see if the Town would like to construct any affordable housing units on two adjoining vacant parcels of land to Wall Street's proposed project. Although the Town had owned these parcels for over 50 years, the Town informed Wall Street that it had no interest in the possibility constructing affordable housing on these parcels. Attached as **Exhibit XIV** is a copy of email response from the Town.

i. During the recent Covid-19 State of Emergency, the Town's Zoning Board continued to hold public hearings on standard applications for variances and special permits filed under M.G.L. c. 40A while singling out applications for comprehensive permits under M.G.L. c. 40B to delay public hearings and the approval process of these proposed affordable housing projects for over seven months. This pattern was a deliberate tactic implemented by the Town to delay the eventual development and construction of affordable housing in the Town.

j. The Town has not proposed any substantive measures, i.e amendments to the zoning bylaws, that i.) provide density bonuses to developers in exchange for the construction of affordable housing, ii) establish a "Smart Growth" zoning districts under MGL Chapter 40R, iii) adopt an Open Space Residential Development (OSRD) bylaw, iv) propose zoning provision that could be a development alternative to C.40B or v.) propose zoning changes to allow and incentivize smaller and more affordable housing units for first time home buyers.

k. In addition, the Town has not attempted to develop criteria for Local Initiative Projects (LIP's), identify public and privately owned property that can support housing development, particularly additional affordable housing.

The foregoing factual information is provided to impart DHCD with some context to the Town's purported "progress" toward its support for the permitting and development of affordable housing. The fact is that the Town has made no substantive efforts to support or propose the development of affordable housing in the Town. DHCD should not reward the Town with the ability to deny Wall Street's application for a comprehensive permit for Darwin Commons for the reasons outlined in 760 CMR 56.03(1)(b) and 56.03(4) due to the receipt of the Certification of Approval dated September 10, 2021 issued by DHCD.

SECTION VI
REQUESTS FOR RELIEF BY DHCD

WHEREFORE, Wall Street requests that the DHCD find the following:

1. That DHCD's Certification Approval issued on September 10, 2021 (the "DHCD Certification") finding that the project for which certification was requested by the Town of Walpole (the "Town") was issued without proper due diligence and therefore should be rescinded;

2. That the Town's letter request for certification was submitted to DHCD improperly as two (2) separate projects, despite the ZBA's decision (and revised decision) approving just a single (mixed-use) project. As such, the Town's unilateral misrepresentation to DHCD that the certification request was based on there being two (2) separate projects, a rental project and a homeownership project, was a deliberate attempt to manipulate the number of units that could be eligible to be counted to the Town's subsidized housing inventory. On which basis DHCD Certification of approval should be rescinded;

3. That the DHCD Certification was based on the use of outdated statistics from the 2010 Census "Year-Round Housing Units" and not in compliance with "Computation of Statutory Minima" as provided for in 760 CMR 56.03(3)(a) and, therefore, the DHCD Certification should be rescinded,

4. That Section II.A.2.b.(1) of the DHCD Guidelines allowing that "all of the units in the rental development shall be eligible for inclusion on the SHI" is an exercise of powers that are neither expressly nor impliedly granted by C. 40B and, therefore, should be declared invalid;

5. That the DHCD Certification is not a valid basis for the Town to deny the application for Comprehensive Permit filed by Wall Street Development Corp. (“Wall Street”) electronically on September 12, 2021;

6. That the Town has not met the requirements of 760 CMR 56.03(5) regarding recent progress toward a municipality’s Statutory Minima;

7. That the proposed housing project does not meet any of the Town’s high priority local needs as outlined in the Town’s HPP and, therefore, is not “consistent with local needs” as provide for in C.40B;

8. That the ZBA’s failure to open a public hearing within 30-days of a complete application being filed negates the ZBA’s right to invoke the provisions outlined in 760 CMR 56.03(1)(b) and 56.03(4) under DHCD’s Certification and is deemed to be constructive approval of Wall Street’s application for comprehensive permit.

Respectfully submitted,

**APPELLANT,
WALL STREET DEVELOPMENT CORP.**



By: Louis Petrozzi, President

P.O. Box 272

Westwood, MA 02090

Tel. 617-922-8700

Email: lou@wallstreetdevelopment.com

EXHIBIT I



Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

Zoning Board of Appeals
John Lee, Chair
Bob Fitzgerald, Clerk
Jane Coffey, Member
Drew Delaney, Member
David Anderson, Member
Judith Conroy, Assoc. Member
Mark Major, Assoc. Member
Timothy Hoegler, Assoc. Member

October 18, 2021

Wall Street Development Corp.
Attn: Louis Petrozzi, President
P.O. Box 272
Westwood, MA 02090

Re: Written Notice of Safe Harbor Pursuant to 760 CMR 56.03(1)(b) and (8)
Residence at Darwin Commons, Darwin Lane, Walpole MA
(July 8, 2021 - MassHousing Project Eligibility Determination)

Dear Mr. Petrozzi,

Please be advised that this correspondence shall serve as written notice to you, Louis Petrozzi (the "Applicant") from the Walpole Zoning Board of Appeals (the "Board"), that, on October 13, 2021, the Board opened the public hearing regarding your application for a comprehensive permit for the project known as The Residence at Darwin Commons, Walpole, Massachusetts (the "Application"), and the Board voted 5 to 0 to invoke and declare that denial of the Darwin Commons 40B application is consistent with local needs as defined in 760 CMR 56.03(1)(b) and 56.03(4) due to receipt of a Certification of Approval, dated September 10, 2021, issued by the Massachusetts Department of Housing and Community Development, certifying the Town of Walpole's compliance with its Housing Production Plan, approved for a two-year period running from April 27, 2021 to April 26, 2023.

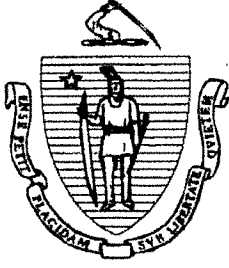
The basis for the Board's determination is that the Town of Walpole ("Town") has achieved one of the statutory minima standards set forth under G.L. c.40B, §§20-23 and 760 CMR 56.03(1)(b) and (4) because the Department of Housing and Community Development ("DHCD") has certified compliance with the Town's Housing Production Plan. A copy of DHCD's certification of compliance with an approved HPP for Walpole is enclosed herewith.

This written notice was forwarded to both the Applicant and to DHCD on October 18, 2021, within 15 days of the October 13, 2021 opening of the public hearing on the Application.

Regards,

John Lee, Chair
Walpole Zoning Board of Appeals

cc: Mr. Philip DeMartino, Department of Housing and Community Development (By Certified & Regular Mail and Electronic Mail)
Ms. Catherine Racer, Department of Housing and Community Development (By Certified & Regular Mail)
Ms. Alana Murphy, Department of Housing and Community Development (By Certified & Regular Mail)
Mr. James Johnson, Town Administrator
Attorney George Pucci, Town Counsel



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn Polito, Lieutenant Governor ♦ Jennifer D. Maddox, Undersecretary

September 10, 2021

Mark Gallivan, Chair
Walpole Select Board
Walpole Town Hall
135 School Street
Walpole, MA 02081

RE: Housing Production Plan - Certification Approval

Dear Mr. Gallivan:

The Department of Housing and Community Development (DHCD) has reviewed the Town of Walpole's August 26, 2021 request for certification of compliance with its Housing Production Plan (HPP). In order for a municipality to be certified the following needs to occur:

- Housing units affordable to low and moderate income households and eligible for inclusion on the Subsidized Housing Inventory (SHI) have been produced during one calendar year, the same year for which certification is requested during the initial year of SHI eligibility.
- Units must total at least 0.5% (45) units for Walpole of year-round housing units for one-year of certification. A total of 1% of year-round housing units (90) units for Walpole are needed for a two-year certification,
- The units were produced and are eligible in accordance with the approved HPP and DHCD's c. 40B Guidelines.¹

DHCD makes the following findings:

1. Walpole has a valid HPP. The effective date for the HPP is April 23, 2019 the date that DHCD received a complete plan submission. The HPP has a five-year term and will expire on April 22, 2024.
2. The project for which certification was requested for is known as Cedar Crossing/ Cedar Edge (SHI ID# 10582) which consists of 226 SHI units.
3. DHCD finds that the units are eligible for SHI inclusion and have been added to the SHI. The number of SHI units (226) is enough for a two-year certification period (90).
4. The certification period will run from April 27, 2021 to April 26, 2023.

Please note that all units must retain eligibility for the SHI for the entire certification period. If units are no longer eligible for inclusion on the SHI, they will be removed and will no longer be eligible for certification. This action may affect the term of your certification. I have included an updated list of SHI eligible units. The Town of Walpole's SHI currently stands at 9.74%. I applaud your efforts to plan for the housing needs of Walpole.

¹ <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf>.

Please contact Phillip DeMartino, Technical Assistance Coordinator, at (617) 573-1357 or Phillip.DeMartino@mass.gov if you need assistance as you implement your HPP.

Sincerely,



Caroline "Chris" Kluchman
Deputy Director, Division of Community Services

cc Senator Paul R. Feeney
Representative Edward R. Philips
Patrick Deschenes, Director, Community & Economic Development, Walpole
James Johnson, Town Administrator, Walpole

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Walpole

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
3197	Walpole Way	146-148, 150 Pemberton Street	Rental	8	Perp	No	DHCD
3198	n/a	Neponset View Terrace	Rental	64	Perp	No	DHCD
3199	n/a	Diamond Pond Terrace	Rental	54	Perp	Yes	DHCD
3200	Ellis Street	Ellis St.	Rental	12	Perp	No	DHCD
3971	The Preserve	212-237 Hilltop Drive	Rental	300	Perp	Yes	MassHousing
4492	DDS Group Homes	Confidential	Rental	34	N/A	No	DDS
4616	DMH Group Homes	Confidential	Rental	21	N/A	No	DMH
9824	Sterling Lane Condominiums	Oak Street/Sterling Lane	Ownership	4	Perp	YES	MassHousing
10220	The Residences at Moose Hill	272 Moose Hill Road	Rental	157	Perp	YES	MassHousing
10582	Cedar Crossing/Cedar Edge	51, 53 and 55 Summer Street	Mix	226	perp	YES	MassHousing
10625	Moose Hill Condominiums	Moose Hill Road	Ownership	2	perp	YES	MassHousing

Walpole Totals

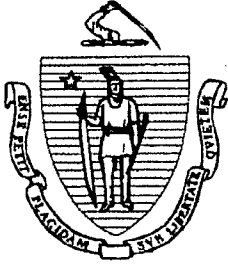
882	Census 2010 Year Round Housing Units	8,984
	Percent Subsidized	9.82%

10/22/2021

Walpole
Page 1 of 1

This data is derived from information provided to the Department of Housing and Community Development (DHCD) by individual communities and is subject to change as new information is obtained and use restrictions expire.

EXHIBIT II



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn Polito, Lieutenant Governor ♦ Jennifer D. Maddox, Undersecretary

September 10, 2021

Mark Gallivan, Chair
Walpole Select Board
Walpole Town Hall
135 School Start
Walpole, MA 02081

RE: Housing Production Plan - Certification Approval

Dear Mr. Gallivan:

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Please contact Phillip DeMartino, Technical Assistance Coordinator, at (617) 573-1357 or Phillip.DeMartino@mass.gov if you need assistance as you implement your HPP.

Sincerely,

A handwritten signature in cursive script, appearing to read "Caroline Kluchman".

Caroline "Chris" Kluchman
Deputy Director, Division of Community Services

cc Senator Paul R. Feeney
Representative Edward R. Philips
Patrick Deschenes, Director, Community & Economic Development, Walpole
James Johnson, Town Administrator, Walpole

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Walpole

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10625	Moose Hill Condominiums	Moose Hill Road	Ownership	2	perp	YES	MassHousing

Walpole Totals

Census 2010 Year Round Housing Units 8,984
Percent Subsidized 9.76%

EXHIBIT III



Fee _____

TOWN OF WALPOLE - ZONING BOARD OF APPEALS

APPLICATION FOR HEARING

FOR COMPREHENSIVE PERMIT APPLICATIONS SEE ZBA RULES AND REGULATIONS FOR COMPREHENSIVE PERMITS

Name of Applicant: 55 SS LLC Date: 1/6/2020

Address: 6 Lyberty Way Suite 203 Westford, MA 01886 Tel. No. 978.369.4884

Location of property involved: 51-53-55 Summer Street

Previous B/A Decision - Case # _____ Date: _____

Assessors Lot No. 52-60, 52-59 and portion of 52-78 Zoning District: LM

This application - (fill out the appropriate request(s) below):

1. Request a **SPECIAL PERMIT** under Section _____ of the Zoning By-Laws
allow _____
to _____

2. Request a **VARIANCE** from Section _____ of the Zoning By-Laws to
allow _____

3. Is an **APPEAL** from action taken by Building Inspector or other administrative official
_____ with respect to _____
(Name of official) (Describe)

EXHIBIT IV

**Cedar Crossing and Cedar Edge Walpole 40B
Rental/Ownership
Project Narrative**

The Cedar Crossing and Cedar Edge Walpole 40B will consist of one project containing a 240 rental units sub-project called Cedar Crossing and a 60-unit ownership sub-project called Cedar Edge Condominiums. Both sub-projects will be funded by the New England Fund and both the ownership and rental portions of the complex will have 25% of the units restricted to occupants earning no more than 80% of the median income. The combined project will address a variety of demographic needs from young families to millennials and empty nesters and will be configured as follows:

Rental:

- 24 three-bedroom units
- 106 two-bedroom units
- 110 one-bedroom units

Ownership:

- 32 three-bedroom units
- 28 two-bedroom units

The rental portion of the project will consist of four, five story 60-unit buildings which will each have elevators and parking under. Five percent (5%) of the units in the rental portion will be handicap accessible and the remainder of the units will be handicapped adaptable. The number of hearing-impaired units will meet state guidelines.

The ownership units, which will be in a condominium association, will be made up of 16 buildings holding 3-4 townhomes.

In addition, the rental portion of the project will contain a club house/management office which will serve the rental project and offer meeting space, business office, pool, playground and other amenities.

Locus:

The site consists of Assessor's Map/Parcel 52-59 & 52-60 and can be seen on the attached Plan of Land dated August 30, 2019. The property consists of approximately 34 acres located on Summer Street in Walpole.

Existing Site Conditions:

Site Location and Environs: The lots are bound by five single and two-family homes along Summer Street to the south. To the East from Summer Street by the CSX/MBTA rail line for approximately 1150 feet and then by vacant forested land owned by Baker Hughes. On the east side of the railroad tracks there is a solar farm on the Baker Hughes Land. To the North the property is bound by a the 361-acre conservation land (Cedar Swap/Cedar Hill) owned by Walpole and to west the property is bound by one large single-family home lot that is mostly forested and also abuts the cedar swamp.

Wetlands: These areas act to collect the runoff from the existing site areas and ultimately discharge to the periphery of the site. The wetlands boundaries are as field delineated by Oxbow Associates, Inc. of Acton, MA. An Abbreviated Notification of Resource Area Delineation (ANORAD) was submitted and approved by the Walpole Conservation Commission. Permit number SE 315-1205.

Habitat: The northernmost 2.2+/- acres of the site lies within mapped Priority and Estimated Habitat polygons designated by the Massachusetts Division of Fisheries and Wildlife (MA DFW). Staff from the Massachusetts Natural Heritage and Endangered Species Program (NHESP) responded to an Information Request filed by Oxbow Associates, Inc., and confirmed that the mapped habitat is associated with occurrences of Hessler's Hairstreak, a moth species listed as "Special Concern" by MA DFW. Hessler's Hairstreak is obligately associated with the Atlantic White Cedar Swamp cover type (PF04 – Palustrine Forested Needle-leaved Evergreen of Cowardin, et al., 1979).

However, the closest point of Atlantic White Cedar Swamp to non-wetland portions of the premises is greater than 200 horizontal feet. Approximately 14,000 square feet of habitat polygon occurs within upland on the site; all of this is within the regulated Riverfront Area (310 CMR 10.58). Because of the distance from any project activity on the premises, we anticipate a negative determination ("no take") to be issued by NHESP for work within terrestrial portions of the premises located southerly of the Priority and Estimated Habitat boundary.

Vegetation: The site has typical attributes of abandoned agricultural areas in Massachusetts and includes portions formerly used as a piggery. The topography gradually slopes downward to the north with net drainage of the site directed to the Cedar Swamp Brook tributary to the Neponset River. Of the 34.5+/- site-acres, approximately 12.7 acres are occupied by palustrine forested hardwood wetland, with about 20.8 acres of upland second growth deciduous and coniferous forest. The +/-1.0 acre adjacent to Summer Street has attributes of "old field" successional habitat with grasses, goldenrods, and various weedy species and landscaping remnants. Forested upland areas are either dominated by oaks, maples and hickories (deciduous cover) or eastern white pine (coniferous). Invasive species typical of abandoned agricultural land in Massachusetts are prominent within the premises and include Asiatic bittersweet, Tatarian honeysuckle, European buckthorn and multiflora rose, among other exotic species.

Soils: The upland portions of the site are comprised of glacial till deposits. The southerly and westerly portions of the site are comprised of Canton soils, which are a deep, well drained class B soil with gentle slopes. The northerly and northeasterly portions of the site are comprised of Scituate soils, which are a deep, moderately well drained class C soil with gentle slopes.

Historic: There are no existing buildings on the site. An archeological dig was performed by PAL under a permit issued by the Mass Historic Commission. The report is pending but PAL is recommending no further action.

Existing Utilities: There are public water supply, sewer, telephone, cable, gas (Columbia Gas) and electric (Eversource) services located within Summer Street.

Access: The site has frontage with an existing curb cut along Summer Street which is controlled by the town of Walpole. Both the rental units and the ownership units will access the site via a newly constructed boulevard driveway that can provide two ways in and out in the case one side of the boulevard is blocked. In

addition, the rental and ownership projects will connect on the north side of the project by a gated emergency accessway.

Traffic: A traffic study has been commissioned and will be submitted to the Zoning Board during the hearings.

Site Utilities: In general, the existing utilities will be extended into the site to support the proposed development. As noted above, these include, gas, water, sewer, electric, CATV/internet, telephone and other standard utilities. Fire protection will be provided by sprinkler services interior to the 4 apartment buildings as is required by code. Hydrants will be installed along the roadway and interior to the site, as required by public safety regulations and in coordination with the Walpole Fire Department.

Stormwater: A stormwater management system has been shown schematically on the Plans to illustrate there is sufficient area and elevations to mitigate stormwater impacts. The stormwater management system will be developed in accordance with Best Management Practices and in accordance with the DEP stormwater management standards. These standards require that stormwater be treated for water quality and controlled in terms of peak rate of runoff which may affect downstream abutters. These practices include Low Impact Development standards. Groundwater recharge will be provided within the detention basins as the soil conditions allow.

Waste Disposal: The rental project will have an on-site recycling and trash center where residents will be encouraged to recycle waste. It will include segregated recycling dumpsters, a general trash dumpster and information board relative to recycling and trash disposal. The ownership portion of the project will be serviced individually.

Green Design & Implementation:

The development of a compact footprint, reduction of pavement, energy efficient systems and preservation of resource use all contribute to a green, low carbon footprint. The development of a mix of multi-story buildings and town homes reduces the lot coverage per unit and building footprint per unit resulting in less building materials, construction waste, and upkeep on the land per unit. All buildings will feature advanced insulation and building envelope techniques. Appliances and Lighting will be Energy Star Program approved. Mechanical Systems in apartments will be highly efficiency units applicable to each use.

The site design will implement Low Impact Design techniques which are intended to increase water quality, increase localized recharge of rainfall/runoff and mitigate runoff to downstream areas. The stormwater management design will include both low impact development stormwater measures and stormwater technologies in the design of a stormwater treatment system. Where the water table and soils allow, runoff will be directed through vegetated swales to detention ponds to both provide the required treatment, infiltration and detention necessary to meet the Massachusetts Stormwater Management Standards. In areas where this is difficult or impossible, stormwater structures and innovative technologies will be used to capture, treat and direct flow to underground and/or surface detention for infiltration and to slow the rate of runoff to the receiving bordering vegetated wetlands.

Open Space & Landscaping:

The site design incorporates the Low Impact Development model, where formalized landscaping will be minimized to the areas around the proposed buildings. Landscape plants to be used will focus on a combination of native, drought and area tolerant species that still provide for seasonal color and character.

Lawn areas will be minimized, with a naturalized mix to be used along roadsides and around non-formal or maintained areas. All lawn mixtures will be of a drought tolerant species mixture, to reduce watering and maintenance requirements. All surfaces that are disturbed by construction will be stabilized by hardscape, plantings or other landscaping.

Open spaces are proposed throughout the project. Where no construction activities are proposed, the landscape will be kept in a natural condition, as permitted by good landscape and arbor-cultural practices. Wetland area will not be disturbed for the construction of this site and project.

Style, Massing, Screening:

Both the ownership townhomes and the rental buildings will be built in a New England Style with sloped roofs and muted colors. This is a large site and much of the land is set back from Summer Street. In addition, the wooded portions of the wetlands have tall trees that will screen significant portions of the development from Summer Street and from direct abutters. Where required, planted screening will be a combination of dense evergreens and deciduous trees/shrubs as designed in consultation with individual neighbors.

Club House and Maintenance Building:

The proposed club house will serve multiple functions: It will have a general-purpose room suitable for meetings, functions or other gatherings, and will house the administrative offices for the Rental portion of the project including rental office, management and general support facilities. The club house will also provide apartment residents access to a controlled, private pool facility, exercise room, adjacent grounds and patio space.

The proposed maintenance building will house equipment required to maintain the proposed project as well as attic stock and supplies for pool and landscape maintenance.

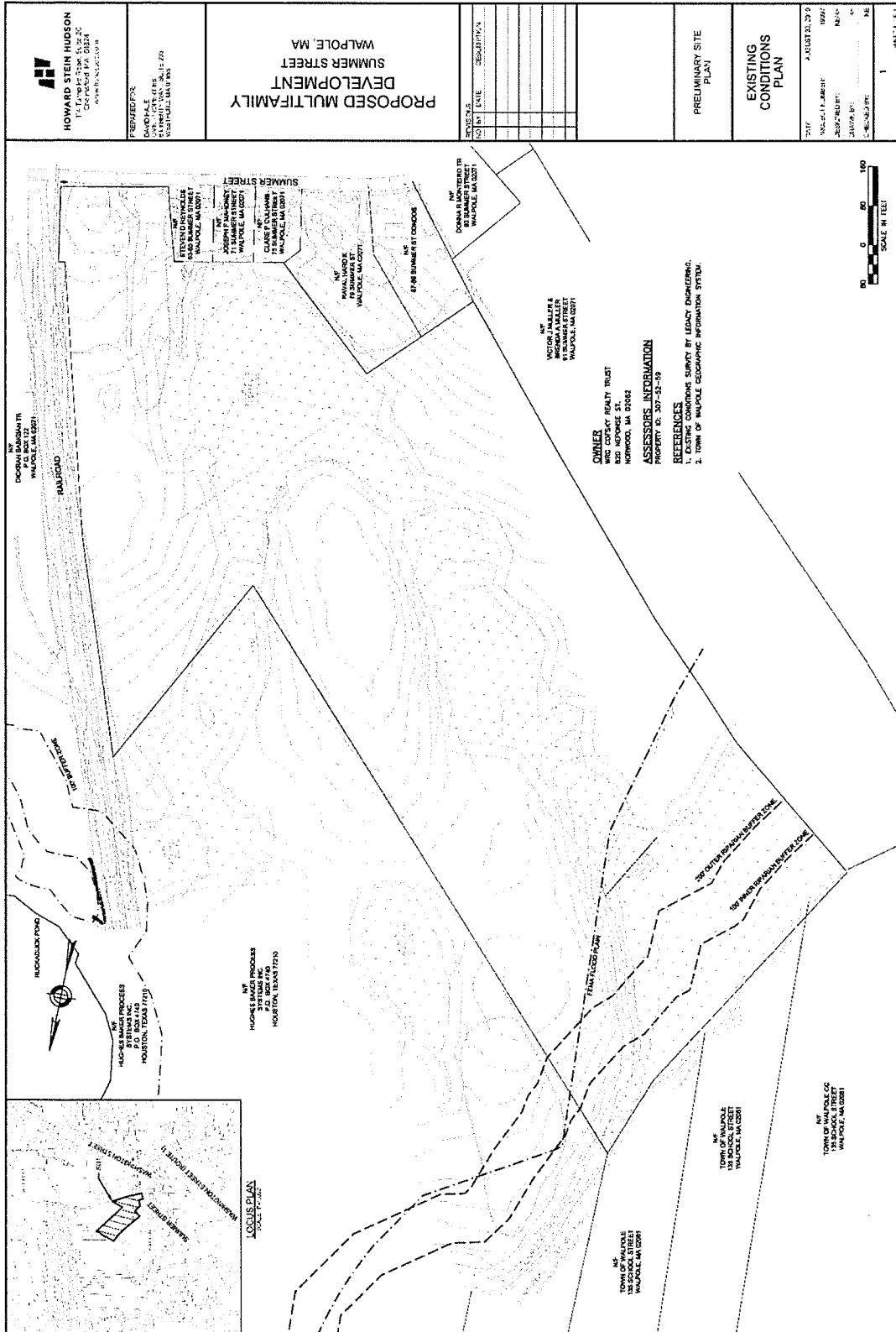


EXHIBIT V



HOWARD STEIN HUDSON
 174 WINDY HILL ROAD, SUITE 202
 CHILMARK, MA 01924
 www.hshvac.com

PREPARED FOR:
 SS BH LLC
 6 LYBERRY WAY, SUITE 203
 WESTFORD, MA 01581

**SINGLE
 ENTRANCE**

**PROPOSED MULTIFAMILY
 DEVELOPMENT
 SUMMER STREET
 WALPOLE, MA**

NO	BY	DATE	DESCRIPTION

02-10-11

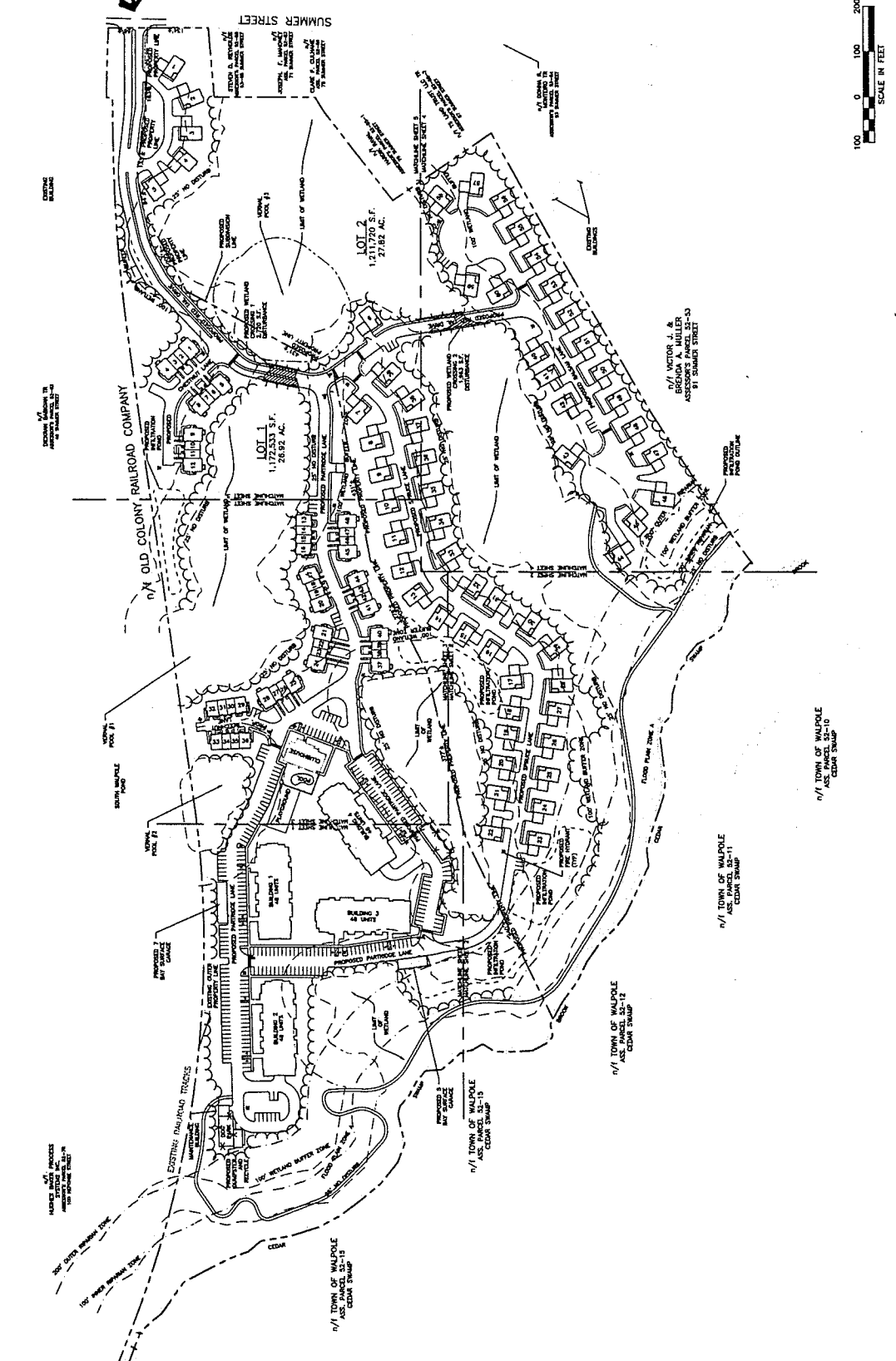
**SITE
 PLAN**

**PROPOSED
 SUBDIVISION/
 OVERALL PLAN**

DATE:	JANUARY 10, 2010
PROJECT NUMBER:	19097
DESIGNED BY:	PHASE 2
DRAWN BY:	PHASE 2
CHECKED BY:	KE

C 10

SHEET 10 OF 43



© 2010 SS BH LLC. ALL RIGHTS RESERVED. THIS PLAN IS THE PROPERTY OF SS BH LLC AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM SS BH LLC.

EXHIBIT VI



21 APR 27 AM 9:48

Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals

John Lee, Chairman
Susanne Murphy, Vice Chair
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Drew Delaney, Member

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

APPLICANT
55 SS LLC

LOCATION OF PROPERTY INVOLVED
51-53-55 Summer Street
Walpole Assessors Map: 52; Lots 59, 60 and a portion of 78

I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was submitted by 55 SS, LLC (“Applicant”) to the Walpole Zoning Board of Appeals (“Board”) on January 15, 2020. As originally proposed by the Applicant, the project consisted of the construction of two-hundred and forty (240) rental apartments and sixty (60) single-family home ownership units (the “Project”) totaling 300 units on property located at 51, 53 and 55 Summer Street, Walpole, Massachusetts (the “Property”). The rental portion of the Project, labeled “Cedar Crossing”, consisted of four (4) four-story buildings (each containing forty-eight (48) units with parking under) and forty-eight (48) rental townhomes. The rental apartments would consist of one-hundred and twelve (112) one-bedroom units and eighty (80) two-bedroom units, and the rental townhomes will consist of twenty-four (24) two-bedroom units and twenty-four (24) three-bedroom units. The single-family home ownership portion of the Project, labeled “Cedar Edge”, consists of three-bedroom single-family homes. .
2. During the hearing process, the Applicant revised the Project. A plan dated January 27, 2021 depicts Lot 1 (Cedar Crossing) having the apartments in two (2), six-story buildings with parking under: Building 1 containing one hundred eight (108) units; and Building 2 containing eighty-four (84) units. There are additionally fifty-two (52) rental townhouses in eleven (11) buildings. Lot 2 (Cedar Edge) contained of sixteen (16) townhouse units within eight (8) duplex

EXHIBIT VII

COMMONWEALTH OF MASSACHUSETTS

HOUSING APPEALS COMMITTEE

55 SS, LLC,)
)
 Appellant,)
)
 v.)
)
 WALPOLE ZONING BOARD OF)
 APPEALS,)
 Appellee.)

No. 2021-02

RECEIVED
 21 AUG 20 AM 11:02
 TOWN OF WALPOLE
 CIVIL DIVISION

DECISION ON STIPULATION AND ENTRY OF JUDGMENT

On or about January 15, 2020, 55 SS, LLC applied to the Walpole Zoning Board of Appeals for a comprehensive permit to create 300 units in a mixed rental and ownership development to be located at 51, 53 and 55 Summer Street, Walpole, Massachusetts. Twenty-five percent of the units were to be affordable units subsidized by the Massachusetts Housing Finance Agency.

The Board issued a written decision, granting a comprehensive permit with conditions and denials of certain requests for waivers affecting both the rental and sale aspects of the proposed project. The Board's Decision was filed with the Town Clerk on April 27, 2021.

On May 12, 2021, the developer filed this appeal requesting that the Committee modify the Board's Decision. After the initial conference of counsel, I issued an order of referral to mediation, and the parties engaged in mediation in an effort to resolve this matter. The parties now report they have reached an agreement.

In order to effectuate this agreement, on July 30, 2021, 55 SS, LLC and the Board filed a Joint Motion to Issue Revised Comprehensive Permit, enclosing thereto the "Revised Decision on Chapter 40B Comprehensive Permit Application, G.L. c. 40B, §§ 20-23,"

EXHIBIT VIII



TOWN OF WALPOLE
COMMONWEALTH OF MASSACHUSETTS

*Walpole Town Hall
135 School Street
Walpole, MA 02081
Phone (508) 660-7300
Fax (508) 660-7303*

Jennifer Maddox, Undersecretary
MA Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114
Attn: Phil DeMartino 40B

Dear Undersecretary Maddox,

The Town of Walpole is please to request certification of compliance of the Town's Housing Production Plan based on the ZBA decision for the 55 Summer Street, 268-unit mixed-income rental and homeownership housing development known as Cedar Crossing and Cedar Edge. The Housing Production Plan is ready for certification of more than 1% of our year-round housing stock (90 units needed, while 226 units from this development will count for our SHI according to 760 CMR 56.03(2)).

Necessary documentation in the form of a ZBA decision and "New SHI Unit" forms have already been sent to DHCD for approval and are also attached.

We await your determination and look forward to working with DHCD throughout the process.

Sincerely,

Mark Gallivan, Chair
Select Board

SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

Name of Development Cedar Crossing
 Address 51, 53 and 55 Summer Street, Walpole, MA 02081
 Total Acreage 54.73

Subsidizing Agency – List All (i.e., MassHousing, DHCD)
MassHousing
 Subsidy Program – List All (i.e., Housing Starts, NEF, LIP, HOME)
NEF

	Rental	Ownership
Total Units in Development	212	
Total Affordable Units	53	
Restricted at 80% of AMI	53	
Restricted at 50% of AMI		
Restricted at 30% of AMI		

Date of Building Permit(s) N/A
 (Provide a listing of issued building permit numbers and corresponding unit numbers and addresses. Please note that foundation permits are not to be included as building permits)

Date of Occupancy Permit(s) N/A (Provide a listing of issued occupancy permit numbers and corresponding unit numbers and addresses)

For Comprehensive Permit Projects, Zoning Approvals under M.G.L. c.40A, and Completed Plan Reviews under M.G.L. c.40R (provide copy of applicable permit, approval, or plan review):

- Date comprehensive permit application was filed with the ZBA: 1/15/2020
- Date comprehensive permit, zoning approval under M.G.L. c.40A, or completed plan review under M.G.L. c.40R was filed with the town clerk: 4/27/2021
- Was an appeal filed? ~~YES~~ or NO
 Was an appeal filed by the Zoning Board of Appeals? YES or ~~NO~~
- Date the last appeal was fully resolved: 8/20/2021
 (Provide documentation)

Documentation* evidencing the following must be submitted with this form:

1. The zoning or permitting mechanism under which the housing development is authorized
2. The units are subsidized by an eligible state or federal program
3. The units are subject to a long term use restriction limiting occupancy to income eligible households for a specified period of time (at least thirty years or longer for newly created affordable units, and at least fifteen years for rehabilitated units)
4. The units are subject to an Affirmative Fair Housing Marketing Plan

SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

5. The last appeal has been fully resolved (where applicable)

Submit form and documentation to: **DHCD Office of the General Counsel
Attn: Subsidized Housing Inventory
100 Cambridge Street, Suite 300
Boston, MA 02114**

Submitted by: Name & Title: Patrick Deschenes, Director of Community & Economic Development
Mailing Address: 135 School Street, Walpole, MA 02082
Phone and email: (508) 660-7352, pdeschenes@walpole-ma.gov

*Please review Section II of the DHCD Comprehensive Permit Guidelines, "Measuring Progress Towards Local Goals," available at: <https://www.mass.gov/service-details/comprehensive-permit-information> for more information about the required criteria for inclusion on the Subsidized Housing Inventory.

SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

Name of Development Cedar Edge
 Address 51, 53 and 55 Summer Street, Walpole, MA 02081
 Total Acreage 54.73

Subsidizing Agency – List All (i.e., MassHousing, DHCD)
MassHousing

Subsidy Program – List All (i.e., Housing Starts, NEF, LIP, HOME)
NEF

	Rental	Ownership
Total Units in Development		56
Total Affordable Units		14
Restricted at 80% of AMI		14
Restricted at 50% of AMI		
Restricted at 30% of AMI		

Date of Building Permit(s) N/A
 (Provide a listing of issued building permit numbers and corresponding unit numbers and addresses. Please note that foundation permits are not to be included as building permits)

Date of Occupancy Permit(s) N/A (Provide a listing of issued occupancy permit numbers and corresponding unit numbers and addresses)

For Comprehensive Permit Projects, Zoning Approvals under M.G.L. c.40A, and Completed Plan Reviews under M.G.L. c.40R (provide copy of applicable permit, approval, or plan review):

- Date comprehensive permit application was filed with the ZBA: 1/15/2020
- Date comprehensive permit, zoning approval under M.G.L. c.40A, or completed plan review under M.G.L. c.40R was filed with the town clerk: 4/27/2021
- Was an appeal filed? YES or NO
 Was an appeal filed by the Zoning Board of Appeals? YES or NO
- Date the last appeal was fully resolved: 8/20/2021
 (Provide documentation)

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4. The units are subject to an Affirmative Fair Housing Marketing Plan

SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

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Submitted by: Name & Title: Patrick Deschenes, Director of Community & Economic Development
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Phone and email: (508) 660-7352, pdeschenes@walpole-ma.gov

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EXHIBIT IX

SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

Name of Development Cedar Crossing
 Address 51, 53 and 55 Summer Street, Walpole, MA 02081
 Total Acreage 54.73

Subsidizing Agency – List All (i.e., MassHousing, DHCD)
MassHousing

Subsidy Program – List All (i.e., Housing Starts, NEF, LIP, HOME)
NEF

	Rental	Ownership
Total Units in Development	212	
Total Affordable Units	53	
Restricted at 80% of AMI	53	
Restricted at 50% of AMI		
Restricted at 30% of AMI		

Date of Building Permit(s) N/A
 (Provide a listing of issued building permit numbers and corresponding unit numbers and addresses. Please note that foundation permits are not to be included as building permits)

Date of Occupancy Permit(s) N/A (Provide a listing of issued occupancy permit numbers and corresponding unit numbers and addresses)

For Comprehensive Permit Projects, Zoning Approvals under M.G.L. c.40A, and Completed Plan Reviews under M.G.L. c.40R (provide copy of applicable permit, approval, or plan review):

- Date comprehensive permit application was filed with the ZBA: 1/15/2020
- Date comprehensive permit, zoning approval under M.G.L. c.40A, or completed plan review under M.G.L. c.40R was filed with the town clerk: 4/27/2021
- Was an appeal filed? YES or NO
 Was an appeal filed by the Zoning Board of Appeals? YES or NO
- Date the last appeal was fully resolved: 8/20/2021
 (Provide documentation)

Documentation* evidencing the following must be submitted with this form:

1. The zoning or permitting mechanism under which the housing development is authorized
2. The units are subsidized by an eligible state or federal program
3. The units are subject to a long term use restriction limiting occupancy to income eligible households for a specified period of time (at least thirty years or longer for newly created affordable units, and at least fifteen years for rehabilitated units)
4. The units are subject to an Affirmative Fair Housing Marketing Plan

SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

5. The last appeal has been fully resolved (where applicable)

Submit form and documentation to: **DHCD Office of the General Counsel
Attn: Subsidized Housing Inventory
100 Cambridge Street, Suite 300
Boston, MA 02114**

Submitted by: Name & Title:	<u>Patrick Deschenes, Director of Community & Economic Development</u>
Mailing Address:	<u>135 School Street, Walpole, MA 02082</u>
Phone and email:	<u>(508) 660-7352, pdeschenes@walpole-ma.gov</u>

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SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

Name of Development Cedar Edge
 Address 51, 53 and 55 Summer Street, Walpole, MA 02081
 Total Acreage 54.73

Subsidizing Agency – List All (i.e., MassHousing, DHCD)
MassHousing

Subsidy Program – List All (i.e., Housing Starts, NEF, LIP, HOME)
NEF

	Rental	Ownership
Total Units in Development		56
Total Affordable Units		14
Restricted at 80% of AMI		14
Restricted at 50% of AMI		
Restricted at 30% of AMI		

Date of Building Permit(s) N/A
 (Provide a listing of issued building permit numbers and corresponding unit numbers and addresses. Please note that foundation permits are not to be included as building permits)

Date of Occupancy Permit(s) N/A (Provide a listing of issued occupancy permit numbers and corresponding unit numbers and addresses)

For Comprehensive Permit Projects, Zoning Approvals under M.G.L. c.40A, and Completed Plan Reviews under M.G.L. c.40R (provide copy of applicable permit, approval, or plan review):

- Date comprehensive permit application was filed with the ZBA: 1/15/2020
- Date comprehensive permit, zoning approval under M.G.L. c.40A, or completed plan review under M.G.L. c.40R was filed with the town clerk: 4/27/2021
- Was an appeal filed? YES or NO
 Was an appeal filed by the Zoning Board of Appeals? YES or NO
- Date the last appeal was fully resolved: 8/20/2021
 (Provide documentation)

Documentation* evidencing the following must be submitted with this form:

1. The zoning or permitting mechanism under which the housing development is authorized
2. The units are subsidized by an eligible state or federal program
3. The units are subject to a long term use restriction limiting occupancy to income eligible households for a specified period of time (at least thirty years or longer for newly created affordable units, and at least fifteen years for rehabilitated units)
4. The units are subject to an Affirmative Fair Housing Marketing Plan

SUBSIDIZED HOUSING INVENTORY: Requesting New Units Form

5. The last appeal has been fully resolved (where applicable)

Submit form and documentation to: **DHCD Office of the General Counsel
Attn: Subsidized Housing Inventory
100 Cambridge Street, Suite 300
Boston, MA 02114**

Submitted by: Name & Title:	<u>Patrick Deschenes, Director of Community & Economic Development</u>
Mailing Address:	<u>135 School Street, Walpole, MA 02082</u>
Phone and email:	<u>(508) 660-7352, pdeschenes@walpole-ma.gov</u>

*Please review Section II of the DHCD Comprehensive Permit Guidelines, "Measuring Progress Towards Local Goals," available at: <https://www.mass.gov/service-details/comprehensive-permit-information> for more information about the required criteria for inclusion on the Subsidized Housing Inventory.

EXHIBIT X

GUIDELINES

Updated December 2014

G.L. C.40B COMPREHENSIVE PERMIT PROJECTS

SUBSIDIZED HOUSING INVENTORY

Regulatory Authority: see 760 CMR 56.00



II. MEASURING PROGRESS TOWARDS LOCAL GOALS

A. Subsidized Housing Inventory

1. Project Eligibility Criteria

A Project or other unit(s) of Low or Moderate Income Housing shall be eligible to be included on the SHI consistent with the provisions of 760 CMR 56.03(2) and with the following requirements.

a. Eligible Subsidy Programs

The housing programs listed in Appendix II.1 are considered eligible subsidy low or moderate-income housing programs for purposes of G.L. c.40B, §§ 20-30, 760 CMR 56.00.¹ Such programs are eligible if they are administered through a Subsidizing Agency; in the case of federal or local programs not administered through a Subsidizing Agency, projects must generally receive a Project Eligibility Letter through DHCD’s Local Initiative Program (“LIP”) or receive LIP Local Action Unit (“LAU”) approval.²

Subsidizing Agencies periodically modify existing programs and create new low- or moderate-income housing programs. Please contact DHCD at 617-573-1533 if you are aware of changes that should be reflected on this list.

b. Affordability – Household Income

In order for a household to be eligible to rent or purchase a restricted unit the household’s income shall not exceed 80% of the AMI. A Subsidizing Agency may establish lower thresholds for its programs.

c. Affordability - Household Assets

The Subsidizing Agency may establish, for its housing programs, asset limitations for eligible households. In the absence of such provisions, eligible households shall be subject to the following asset limitations:

- (1) For age-restricted homeownership Projects, household assets shall not exceed \$275,000 in value, including equity in a dwelling (to be sold). (Note: For New England Fund, Housing Starts, and the Local Initiative Program, this asset limit applies for projects which applied for a determination of project eligibility on or after February 22, 2008. For such projects which applied for a determination of project eligibility prior to that date, then-existing program asset limits apply.)
- (2) For non-age restricted homeownership units, household assets shall not exceed \$75,000 in value.
- (3) For rental units, the greater of the following will be added to income: the income derived from the assets or an imputation of value calculated in a manner consistent with HUD requirements in place at the time of marketing.

¹ This listing does not provide a conclusive indication as to whether any housing development or housing unit is within the statutory definition of low- or moderate-income housing, though this listing is used by DHCD in making such determinations. Such determinations are subject to review by the Housing Appeals Committee in the context of formal appeals concerning particular housing proposals.

²Exceptions apply for locally administered CDBG and HOME rehabilitated housing units.

- (4) If a potential purchaser divests him/herself of an asset for less than full and fair cash value of the asset within two years prior to application, the full and fair cash value of the asset shall be included for purposes of calculating eligibility.

For a detailed description of assets and the treatment of such in determining eligibility, please refer to HUD's "Occupancy Requirements of Subsidized Multifamily Housing Programs"; Handbook 4350.3, Chapter 5, and Appendix II.2, "Additional Guidance on Income". In the event of any conflict between the Handbook and the explicit requirements of these Guidelines or of a Subsidizing Agency (e.g. rules regarding owning a residence at the time of application), the requirements of the Subsidizing Agency and these Guidelines, in that order, shall take precedence over the Handbook.

(May 2013 Update: Language on assets in connection with rental units; reference to HUD Handbook for description of assets.)

d. Housing Cost

Generally, the housing program, through its statutory basis, regulations, or guidelines establishes the maximum monthly housing cost. In the absence of such a provision, the following provisions shall apply:

- (1) Rental -- monthly housing costs (inclusive of utilities) shall not exceed 30% of monthly income for a household earning 80% of area median income, adjusted for household size. If there is no city trash collection, a trash removal allowance shall be included. If the utilities are separately metered, they may be paid by the tenant and the maximum allowable rent will be reduced to reflect the tenants' payment of utilities, based on the area's utility allowance. Developers should secure the amount of the current Section 8 utility allowance for the specific unit size and type from the local/regional housing authority.
- (2) Assisted Living Facility – ALFs shall be treated as rental housing.
- (3) Homeownership
 - (a) Down payment must be at least 3% of the purchase price, at least half of which must come from the buyer's funds unless the Eligible Subsidy Program permits a smaller down payment.
 - (b) Mortgage loan must be a 30-year fully amortizing mortgage for not more than 97% of the purchase price with a fixed interest rate that is not more than 2 percentage points above the current MassHousing interest rate (www.masshousing.com).
 - (c) Monthly housing costs (inclusive of principal, interest, property taxes, hazard insurance, private mortgage insurance and condominium or homeowner association fees) shall not exceed 38% of monthly income for a household earning 80% of area median income, adjusted for household size.
- (4) Continuing Care Retirement Communities – CCRs shall be treated as homeownership units.
 - (a) Entry Fee -- Any requisite entrance fee policy must be reasonable, taking into account that many otherwise eligible households may not have owned a home previously, and therefore the value of their Household Assets may be limited. A policy that sets a minimum entry fee for such households at a figure that is equivalent to 10% down payment on a homeownership unit for which a household at 80% of area median income, adjusted for household size, would be eligible, shall be deemed to be reasonable.

Note: Resident selection for the Affordable Units must comply with the requirements of a lottery or other fair and equitable procedure approved by the Subsidizing Agency (see Section III, Affirmative Fair Housing Marketing Plan), and without regard to the amount of their assets.

(b) Monthly fees – generally may not exceed 35% of household income plus an allowance for meals, if provided.

(c) Health care reserve fund – to the extent required, such fund must be reasonable and must be held for the benefit of the household for the exclusive purpose of paying for acute and skilled nursing care. The health care reserve fund shall be funded prior to determining whether a household has sufficient resources for the entrance deposit and shall be excluded from calculation of assets for the purposes of determining asset eligibility.

(May 2013 change: insertion of paragraph on Assisted Living.)

e. Use Restriction

All Use Restrictions must meet the following minimum standards:

- (1) Runs with the land and recorded at the appropriate registry of deeds or filed with the appropriate land court registry district for a term that shall be not less than 15 years for rehabilitated housing units and not less than 30 years for newly created units.³
- (2) Identifies the Subsidizing Agency and monitoring agent, if applicable.
- (3) Effectively restricts occupancy of Low and Moderate Income Housing to Income Eligible Households. A Use Restriction may require that an Income Eligible Household must have a lower percentage of area median income than 80%.
- (4) Requires that tenants of rental units and owners of homeownership units shall occupy the units as their domiciles and principal residences.
- (5) Provides for effective administration, monitoring, and enforcement of such restriction.
- (6) Contains terms and conditions for the resale of a homeownership unit, including definition of the maximum permissible resale price, and for the subsequent rental of a rental unit, including definition of the maximum permissible rent.
- (7) Subjects the units to an Affirmative Fair Housing Marketing and Resident Selection Plan for approval by the Subsidizing Agency and consistent with the guidelines in the following Section III, as may be amended from time to time, for the term of the restriction.

f. Affirmative Fair Housing Marketing and Resident Selection Plan

- (1) For Projects that received a determination of Project Eligibility on or after March 1, 2014, the Project is in compliance with the Bedroom Mix Policy as set forth in the "Interagency Agreement Regarding Housing Opportunities for Families with Children"; see, <http://www.mass.gov/hed/docs/dhcd/hd/fair/familyhousinginteragencyagreement.pdf>.

³ Newly created units includes units that were converted from a prior use (e.g., commercial or public use) into housing units

- (2) The affordable housing units shall be subject to an Affirmative Fair Marketing and Resident Selection Plan that, at a minimum, meets the requirements set out in the following Section III, Affirmative Fair Housing Marketing Plan.

(May 2013 Update: insertion of requirement of AFHMP requirement; no change in policy.)

2. Unit Eligibility Criteria

a. General

Regardless of the zoning or permitting mechanism utilized, all affordable housing units that meet the criteria outlined in Section II.A.1 shall be eligible for inclusion on the SHI at the earliest of the following:

- (1) For units that require a Comprehensive Permit under M.G.L. c.40B, §§ 20 through 23, or a zoning approval under c.40A or completion of plan review under M.G.L. c.40R, the date when
 - (a) the permit or approval is filed with the municipal clerk, notwithstanding any appeal by a party other than the Board, but subject to the time limit for counting such units set forth at 760 CMR 56.03(2)(c), or
 - (b) on the date when the last appeal by the Board is fully resolved.
- (2) When the building permit for the unit is issued.
- (3) When the occupancy permit for the unit is issued.
- (4) When the unit is occupied by an Income Eligible Household and all the conditions of 760 CMR 56.03(2)(b) have been met (if no Comprehensive Permit, zoning approval, building permit, or occupancy permit is required.)

b. Rental & Assisted Living Facility

- (1) General - In a rental or ALF development, if at least 25% of units are to be occupied by Income Eligible Households earning 80% or less than the area median income, or alternatively, if at least 20% of units are to be occupied by households earning 50% or less of area median income, and meet all criteria outlined in Section 1, then all of the units in the rental development shall be eligible for inclusion on the SHI. In determining the number of units required to satisfy either percentage threshold, fractional numbers shall be rounded up to the nearest whole number (e.g.: in a 51 unit development, one would restrict 13 units in order to meet the 25% standard).

If fewer than the aforementioned percentages of units in the development are so restricted, then only the units that meet the requirements of Section II.A.1 shall be included.

- (2) Accessory Apartments - shall be eligible for inclusion in the SHI provided they meet the requirements of Section VI, Local Initiative Program.
- (3) Tenants Who Become Over-Income: If, after initial occupancy, the income of a tenant of an affordable unit increases and exceeds the maximum allowable income at the time of annual income determination, such a Update in income shall not affect the treatment of the Project or the unit with respect to the SHI provided that the Owner is in compliance with the related

EXHIBIT XI

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Walpole

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
3197	Walpole Way	146-148, 150 Pemberton Street	Rental	8	Perp	No	DHCD
3198	n/a	Neponset View Terrace	Rental	64	Perp	No	DHCD
3199	n/a	Diamond Pond Terrace	Rental	54	Perp	Yes	DHCD
3200	Ellis Street	Ellis St.	Rental	12	Perp	No	DHCD
3971	The Preserve	212-237 Hilltop Drive	Rental	300	Perp	Yes	MassHousing
							DHCD
							DHCD
4492	DDS Group Homes	Confidential	Rental	34	N/A	No	DDS
4616	DMH Group Homes	Confidential	Rental	21	N/A	No	DMH
9824	Sterling Lane Condominiums	Oak Street/Sterling Lane	Ownership	4	Perp	Yes	MassHousing
10220	The Residences at Moose Hill	272 Moose Hill Road	Rental	157	Perp	Yes	MassHousing
10582	Cedar Crossing/Cedar Edge	51, 53 and 55 Summer Street	Mix	226	perp	Yes	MassHousing
10625	Moose Hill Condominiums	Moose Hill Road	Ownership	2	perp	Yes	MassHousing
Walpole Totals				882	Census 2010 Year Round Housing Units	8,984	
					Percent Subsidized	9.82%	

*

10/22/2021

This data is derived from information provided to the Department of Housing and Community Development (DHCD) by individual communities and is subject to change as new information is obtained and use restrictions expire.

EXHIBIT XII

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Walpole

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
3197	Walpole Way	146-148,150 Pemberton Street	Rental	8	Perp	No	DHCD
3198	n/a	Neponset View Terrace	Rental	64	Perp	No	DHCD
3199	n/a	Diamond Pond Terrace	Rental	54	Perp	Yes	DHCD
3200	Ellis Street	Ellis St.	Rental	12	Perp	No	DHCD
3971	The Preserve	212-237 Hilltop Drive	Rental	300	Perp	Yes	MassHousing
4492	DDS Group Homes	Confidential	Rental	34	N/A	No	DDS
4616	DMH Group Homes	Confidential	Rental	21	N/A	No	DMH
9824	Sterling Lane Condominiums	Oak Street/Sterling Lane	Ownership	4	Perp	YES	MassHousing
10220	The Residences at Moose Hill	272 Moose Hill Road	Rental	157	Perp	YES	MassHousing
10582	Cedar Crossing/Cedar Edge	51, 53 and 55 Summer Street	Mix	226	perp	YES	MassHousing
10625	Moose Hill Condominiums	Moose Hill Road	Ownership	2	perp	YES	MassHousing

Walpole Totals	
882	Census 2010 Year Round Housing Units
8,984	Percent Subsidized

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Norwood

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?		Subsidizing Agency
						No	Yes	
2322	Brookview Village	Brookview Circle	Rental	96	Perp	No		HUD
2323	Washington Heights	Roosevelt Ave & Jefferson Dr	Rental	75	Perp	No		DHCD
2324	Frank L. Walsh Housing	40 William Shyne Circle	Rental	72	Perp	No		DHCD
2325	Nahatan Village	Nahatan Street	Rental	72	Perp	No		DHCD
2326	Nahatan Village	Nahatan St	Rental	80	Perp	No		DHCD
2327	Willow Wood Terrace	Adams St/Railroad/Willow	Rental	50	Perp	No		DHCD
2328	Willow Wood Terrace	Hill St.	Rental	36	Perp	No		DHCD
2329	13 St. George St.	13 St. George St.	Rental	9	2022	No		HUD
2330	18 Clapboardtree St.	18 Clapboardtree St.	Rental	13	2027	No		HUD
2331	Olde Derby Village	Wilson & Walpole St.	Rental	139	Perp	Yes		DHCD
4406	DDS Group Homes	Confidential	Rental	76	N/A	No		DDS
7195	911 Washington Street Condos	909-911 Washington Street	Ownership	2	perp	No		DHCD
7648	The Condos at Lenox Station	Lenox Street	Ownership	5	2056*	No		DHCD
8993	Saint George Avenue	27 St. James Ave	Ownership	3	perp	NO		DHCD
9636	One Upland	1 Upland Woods Circle	Rental	262	Perp	YES		MHP
9669	1021 Washington Street	1021 Washington Street	Rental	6	2022	NO		DHCD
9852	Regal Lofts	129 Guild Street	Rental	40	perp	NO		DHCD
10244	Avalon Norwood	150-158, 165 Lenox St	Rental	198	Perp	YES		MHP

10/22/2021

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Norwood

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
	Norwood Totals			1,234	Census 2010 Year Round Housing Units		
						Percent Subsidized	12,441 9.92%

10/22/2021

Norwood
Page 2 of 2

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Canton

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
634	n/a	60-86 Pequit St.	Rental	26	Perp	No	DHCD
635	Hagen Court	Newell Hagen Court	Rental	72	Perp	No	DHCD
636	Hemenway School	660 Washington St.	Rental	58	Perp	No	DHCD
637	Julius Rubin Court	Rubin Court	Rental	74	Perp	No	DHCD
638	Brayton Circle	1-12 Brayton Circle	Rental	12	Perp	No	DHCD
639	n/a	Concord Ave.	Rental	2	Perp	No	DHCD
640	n/a	833 Washington/ 27 Howard	Rental	5	Perp	Yes	DHCD
641	Blue Hills Village	101 Randolph St.	Rental	98	Perp	Yes	DHCD
642	Canton Arboretum	One Arboretum Way	Rental	156	Perp	No	DHCD
643	Canton Village	Pleasant Street/ 1 Will Dr.	Rental	56	2030	Yes	MassHousing
644	Lampighter Village	1 Stagecoach Road	Rental	81	2032	No	MassHousing
4232	DDS Group Homes	Confidential	Rental	59	N/A	No	DDS
6699	Pequit Village	1 - 3 Windsor Village (fka Turmpike St)	Rental	159	2035	Yes	MassHousing
6700	Pequit View	Turtle Brook Road (Off of Waterman Rd)	Ownership	21	perp	Yes	MassHousing
7916	Blue Hill Commons	Royal Avenue	Ownership	7	perp	NO	DHCD
9104	Stagecoach Village/Indian Woods	Stage Coach Road	Ownership	14	Perp?	YES	FHLBB
9621	Avalon Canton	off Randolph Street	Rental	196	2109	YES	DHCD
10468	Plymouth Rubber Redevelopment	1 Revolution Way	Ownership	3	Perp	NO	DHCD

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Canton

DHCD ID # 10633 Project Name Millside at Heritage Park Address 104 Revere St Type Rental Total SHI Units 60 Affordability Expires Perp Built w/ Comp. Permit? NO Subsidizing Agency DHCD

Canton Totals

1,159 Census 2010 Year Round Housing Units 8,710 Percent Subsidized 13.31%

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Medfield

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit? Yes	Subsidizing Agency
1890	Tilden Village	30 Pound Street	Rental	60	Perp	Yes	DHCD
1891	Allendale	Dale Street	Ownership	17	Perp	YES	DHCD
1892	The Village at Medfield	Turtle Brook Way	Ownership	6	Perp	YES	DHCD
1893	Wilkins Glen	Wilkins Glen Road	Rental	103	2042	YES	MassHousing
4360	DDS Group Homes	Confidential	Rental	5	N/A	No	DDS
9953	The Parc at Medfield	One Drive	Rental	92	Perp	YES	DHCD
10062	Country Estates	21, 25, & 29 Hospital Rd	Ownership	8	Perp	YES	MassHousing
10063	Cushman House aka Cushing House	67 North Street	Rental	8	Perp	YES	DHCD
10221	71 North Street	71 North Street	Rental	8	Perp	YES	DHCD
10222	Hillside Village	80 North Meadows Road	Rental	16	Perp	YES	DHCD
10290	Medfield Meadows	41 Dale St	Mix	27	Perp	YES	DHCD
10461	Aura at Medfield	50 Peter Kristof Way	Rental	56	Perp	YES	DHCD
Medfield Totals				406	Census 2010 Year Round Housing Units	4,220	9.62%
					Percent Subsidized		

10/22/2021

Medfield
Page 1 of 1

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Norfolk

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
2220	Hillcrest Village	33 Rockwood Rd.	Rental	64	Perp	No	DHCD
2221	Pine Knoll	Arnold Rd.	Rental	20	Perp	No	DHCD
4394	DDS Group Homes	Confidential		25	N/A	No	DDS
7955	Town Center Condominiums	Meeting House Road	Ownership	11	perp	YES	MassHousing
9874	Norfolk Affordable Housing Scattered Site Program	West Cedar Street	Ownership	1	perp	NO	DHCD
9875	Norfolk Affordable Housing Scattered Site Program	North Street	Ownership	1	perp	NO	DHCD
9876	Norfolk Affordable Housing Scattered Site Program	Cleveland Street	Ownership	1	perp	NO	DHCD
9877	Norfolk Affordable Housing Scattered Site Program	North Street	Ownership	1	perp	NO	DHCD
9878	Norfolk Affordable Housing Scattered Site Program	North Street	Ownership	1	perp	NO	DHCD
9879	Norfolk Affordable Housing Scattered Site Program	Old Populatic Road	Ownership	1	perp	NO	DHCD
9880	Norfolk Affordable Housing Scattered Site Program	Rockwood Road	Ownership	1	perp	NO	DHCD
9881	Norfolk Affordable Housing Scattered Site Program	Mirror Lake Avenue	Ownership	1	perp	NO	DHCD
9882	Norfolk Affordable Housing Scattered Site Program	Boardman Street	Ownership	1	perp	NO	DHCD
9883	Norfolk Affordable Housing Scattered Site Program	Main Street	Ownership	1	perp	NO	DHCD

10/22/2021

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Norfolk

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
10035	Meetinghouse Village Condominiums	Meetinghouse Road	Ownership	0	Perp	YES	MassHousing
10036	Boyd's Crossing	106/108 Main Street	Ownership	0	Perp	YES	MassHousing
10181	Norfolk Affordable Housing Scattered Site Program	Park Street	Ownership	1	Perp	NO	DHCD
10182	Norfolk Affordable Housing Scattered Site Program	Geneva Road	Ownership	1	Perp	NO	DHCD
10183	Norfolk Affordable Housing Scattered Site Program	Main Street	Ownership	1	Perp	NO	DHCD
10184	Norfolk Affordable Housing Scattered Site Program	Medway Branch	Ownership	1	Perp	NO	DHCD
10185	Norfolk Affordable Housing Scattered Site Program	Medway Branch	Ownership	1	Perp	NO	DHCD
10186	Norfolk Affordable Housing Scattered Site Program	Needham Street	Ownership	1	Perp	NO	DHCD
10204	Lakeland Farms	84 Cleveland Street	Ownership	0	Perp	YES	MassHousing
10205	The Village at Norfolk	25 Rockland Road	Ownership	0	Perp	YES	MassHousing
10519	Boyd's Crossing	106-108 Main Street	Ownership	10	Perp	YES	MassHousing
10520	Meeting House Village	Meeting House Road	Ownership	5	Perp	YES	MassHousing
10524	The Residences at Norfolk Station	194 Main St	Ownership	9	Perp	YES	MassHousing
10525	The Preserve at Abbyville/Abbyville Commons	67 Lawrence St	Ownership	16	Perp	YES	MassHousing
10526	Lakeland Hills	144 Seekonk St	Ownership	11	Perp	YES	MassHousing

10/22/2021

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Norfolk

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
	Norfolk Totals			187	Census 2010 Year Round Housing Units		3,112
							Percent Subsidized 6.01%

10/22/2021

Norfolk
Page 3 of 3

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Sharon

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
2755	Hixson Farm	18 Hixson Farm Rd	Rental	64	Perp	No	DHCD
2756	Hixson Farm	26 Hixson Farm Rd	Rental	24	Perp	Yes	DHCD
2757	n/a	2601 Bay Rd.	Rental	8	Perp	No	DHCD
2758	n/a	215 Pleasant St.	Rental	6	Perp	No	DHCD
2759	Habitat for Humanity	Gunhouse Street	Ownership	1	Perp	No	DHCD
2760	Stoney Brook Court	51 Hixson Farm Rd.	Rental	99	2025	Yes	HUD
4451	DDS Group Homes	Confidential		64	N/A	No	DDS
8694	Avalon Sharon	361-363 Norwood St	Rental	156	Perp	YES	DHCD
9295	Charles R. Wilber School Apartments	75 South Main Street	Rental	75	Perp	YES	DHCD
9296	Glenview Rd	Glenview Rd	Ownership	1	Perp	NO	DHCD
9933	Sharon Residences	135 Old Post Road	Rental	0	2115	NO	DHCD
10005	Landmark Pointe	635 Old Post Road	Ownership	0	Perp	YES	MassHousing
10543	Eli Apartments	135 Old Post Road	Rental	192	perp	NO	DHCD

Sharon Totals

Census 2010 Year Round Housing Units 6,413
 Percent Subsidized 10.76%

10/22/2021

Sharon
Page 1 of 1

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DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Wrentham

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
3615	Bennett Gardens	Garden Lane	Rental	30	Perp	Yes	DHCD
3616	Bennett Gardens	Garden Lane	Rental	36	Perp	Yes	DHCD
3617	n/a	New Emerald Lane	Rental	15	Perp	Yes	DHCD
3618	Liberty Pines	56 Creek Street	Rental	58	2033*	No	MassHousing
4532	DDS Group Homes	Confidential	Rental	34	N/A	No	DDS
8840	Eaglebrook Development	off Franklin St and Industrial Rd	Ownership	38	Perp	YES	MassHousing
9921	Eagle Brook Commons	5 Eagle Brook Boulevard	Rental	0	Perp	YES	MassHousing
10384	Alexan	40, 50 and 60 Ledgeview Way	Rental	220	Perp	YES	MassHousing
10635	Eagle Brook Commons	5 Eagle Brook Boulevard	Rental	7	perp	YES	MassHousing

Wrentham Totals

Census 2010 Year Round Housing Units 3,821
 Percent Subsidized 11.46%

EXHIBIT XIII

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CH40B SUBSIDIZED HOUSING INVENTORY

Walpole

DHCD ID #	Project Name	Address	Type	Total SHI Units	Affordability Expires	Built w/ Comp. Permit?	Subsidizing Agency
3197	Walpole Way	146-148,150 Pemberton Street	Rental	8	Perp	No	DHCD
3198	n/a	Neponset View Terrace	Rental	64	Perp	No	DHCD
3199	n/a	Diamond Pond Terrace	Rental	54	Perp	Yes	DHCD
3200	Ellis Street	Ellis St.	Rental	12	Perp	No	DHCD
3971	The Preserve	212-237 Hilltop Drive	Rental	300	Perp	Yes	MassHousing
4492	DDS Group Homes	Confidential	Rental	34	N/A	No	DDS
4616	DMH Group Homes	Confidential	Rental	21	N/A	No	DMH
9824	Sterling Lane Condominiums	Oak Street/Sterling Lane	Ownership	4	Perp	YES	MassHousing
10220	The Residences at Moose Hill	272 Moose Hill Road	Rental	157	Perp	YES	MassHousing
10582	Cedar Crossing/Cedar Edge	51, 53 and 55 Summer Street	Mix	226	perp	YES	MassHousing
10625	Moose Hill Condominiums	Moose Hill Road	Ownership	2	perp	YES	MassHousing
Walpole Totals							
				882	Census 2010 Year Round Housing Units	8,984	8.92%
					Percent Subsidized	9.82%	9.82%

*

EXHIBIT XIV



Lou Petrozzi <lou@wallstreetdevelopment.com>

Dupee Street - Proposed Development

Lou Petrozzi <lou@wallstreetdevelopment.com>

Sun, Aug 11, 2019 at 7:23 AM

To: Jim Johnson <jjohnson@walpole-ma.gov>

Bcc: Chris Timson <ctimson@timsonlaw.com>

Hi Jim:

Just checking in to see if any additional thought has been given to the use of the town owned property on Summit Ave for affordable housing in connection with the proposed 40B development on Dupee Street. Let me know if any interest as we are beginning the process of preparing formal plans. Also, at the site meeting it seemed to be the general consensus to construct Dupee Street to Summit Ave. by way of the town owned right of way. It would be appreciated if you would confirm one way or the other.

Thanks,

LP

[Quoted text hidden]



Lou Petrozzi <lou@wallstreetdevelopment.com>

Dupee Street - Proposed Development

Jim Johnson <jjohnson@walpole-ma.gov>

Wed, Aug 14, 2019 at 10:07 PM

To: Lou Petrozzi <lou@wallstreetdevelopment.com>

Lou

The board of selectmen have not indicated to me that they want to pursue your offer. As for your right of way question, I don't believe I have the authority to give you the green light on my own. I would like to have a letter from you requesting this, and then I can work with town counsel on it.

Jim Johnson

[Quoted text hidden]