

# **TOWN OF SAUGUS**

## **Zoning Board of Appeals**

**298 Central Street**

**Saugus MA 01906**

### **DECISION ON APPLICATION FOR COMPREHENSIVE PERMIT**

#### **G.L. c. 40B, §§ 20-23**

COMPREHENSIVE PERMIT: 1098

APPLICANT: SAUGUS RESIDENTIAL, LLC (“Applicant”)

PROPERTY: Rear Broadway Saugus, MA (“Property”)

ASSESSORS’ MAP: Lot #5-21-32-1-22

DEVELOPMENT NAME: Saugus Ridge

DATE: September 3, 2019

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### **DECISION**

Pursuant to G.L. c. 40B, the Zoning Board of Appeals of Saugus (“ZBA”) hereby grants a Comprehensive Permit to the Applicant for the construction of 300 dwelling units on the Property, with associated infrastructure and improvements, subject to the following conditions. The term "Applicant" in this Decision means the Applicant, its heirs, successors and assigns. The ZBA may designate an agent or agents to review and approve matters set forth herein.

#### **I. PROCEDURAL HISTORY**

1. An application for a Comprehensive Permit was received by the ZBA on or about, August 7, 2018 (“Application”). The Application proposes the development of three hundred (300) apartment units in a single structure located on a 28-acre parcel of land in the rear of Broadway (Route 1) Saugus, Massachusetts (“Project”).
2. The ZBA’s public hearing on the Application was duly opened on September 27, 2018, and was continued to October 25, 2018, December 17, 2018, January 24, 2019, February 21, 2019, March 28, 2019, May 23, 2019, June 27, 2019, and July 25, 2019. Workshop meetings were also held on June 4, 2019 and July 16, 2019. A site walk was held on June 1, 2019. The public hearing was closed on July 25, 2019.
3. The Applicant provided various materials, reports, studies, and revised plans throughout the course of the public hearing on the Application.

4. During the public hearing, the Applicant was assisted primarily by its counsel, Mark Bobrowski; its civil engineer Brian Jones, P.E., of Allen & Major; and Corinne Tobias, PE, PTOE of Allen & Major for traffic engineering.
5. The ZBA utilized the services of Sean Reardon, PE, of Tetra Tech, for civil and stormwater peer review and Daniel Mills, PE, PTOE of MDM Transportation, for traffic peer review. Joseph Peznola of Hancock Associates also served the ZBA as its technical consultant through the Massachusetts Housing Partnership Technical Review program.
6. The ZBA received substantial written and oral comments and information from abutters and other interested persons throughout the hearing process.

## II. JURISDICTIONAL FINDINGS

7. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the ZBA, and the Project fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
  - a. The Applicant is a limited dividend entity, Saugus Residential, LLC, which is a single-purpose entity created for the purpose of the Project. Saugus Ridge, LLC has a principal place of business at 250 Gibraltar Road, Horsham, PA 19044.
  - b. The Applicant has received a written determination of Project Eligibility from MassHousing dated July 18, 2018, a copy of which was provided to the Board with the original application.
  - c. The Applicant provided a copy of a Purchase and Sale Agreement dated August 29, 2016, for the property located to the rear of 720 Broadway and an easement over the land at 720 Broadway. Thus, the Applicant has shown evidence of site control sufficient to apply for a Comprehensive Permit.
  - d. The Applicant has agreed to execute a Regulatory Agreement that limits its annual distributions in accordance with G. L. c. 40B and the regulations (760 CMR 56.00 et seq.) and guidelines adopted thereunder by DHCD.
8. The Town of Saugus ("Town") does not meet the statutory minima set forth in G.L. c. 40B, § 20 or 760 CMR 56.03(3) to 56.03(7):
  - a. At the time of the filing of the Application, the number of low or moderate income housing units in the Town constituted 6.8% of the total year-round units in the Town, based on the most recent publicly available copy of the DHCD Subsidized Housing Inventory, dated September 14, 2017. Thus, the Town does not meet the ten percent (10%) statutory minimum.
  - b. The Town does not have information that there are existing affordable housing units that are on sites that comprise more than one and one half percent (1.5%) of

the total land area of the Town zoned for residential, commercial or industrial use (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof).

- c. The granting of this Comprehensive Permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent (0.3%) of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
- d. The Town has a currently approved Housing Production Plan pursuant to 760 CMR 56.03(4), dated July 23, 2018 and valid through July 22, 2023. The Safe Harbor thresholds under this plan are 54 units (0.5%) and 108 units (1.0%). This Project represents 2.7% of the total housing stock in town.
- e. The Town has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
- f. The Project does not constitute a Large Project pursuant to 760 CMR 56.03(6) as it does not exceed 6% of the total housing stock.
- g. The Applicant's Comprehensive Permit Application constitutes a Related Application pursuant to 760 CMR 56.03(7). The Board reserves its rights regarding this Finding.

### III. FACTUAL FINDINGS

#### Location of Project

- 9. The Project is located on property at the rear of 720 Broadway (Route 1), Saugus, Massachusetts and consists of twenty-eight (28) acres more or less. The Applicant's Purchase and Sale Agreement includes an additional seventeen (17) acres. However, the Project includes only the 28-acre part of the parcel, and this Comprehensive Permit applies to only that 28-acre area.
- 10. The Property is located in the R-1 Residential Zoning District under the Saugus Zoning By-law ("By-law"). Nearby uses consist of a commercial uses along Broadway (Route 1) and residential uses to the rear on Cliff Road and Anderson Way.

#### Civil Engineering, Site Design, and Stormwater Impact

- 11. The Board engaged in peer review of potential civil engineering, site design, and stormwater impacts of the Project.

12. The Project will connect to the Saugus municipal sewer systems, and will contribute 50,270 gallons per day of the total flow to the municipal wastewater system. The Project will connect to the existing 10" PVC gravity sewer line that runs along the frontage of the property within a sewer easement. The 10" sewer runs southward along the northbound side of Route 1 approximately 1,300 feet, where it discharges to the wet well of a pump station located at the front of 846 Broadway, the Saugus Mobile Home Park. The Board's peer review engineer concluded that there is presently sufficient wastewater treatment and discharge capacity for this Project. However, the Town's Public Works Director is concerned with the present functioning of the pump station due to the high inflow and infiltrations (I/I) experienced during rain events. The Board finds that, as conditioned herein, the Project addresses the capacity of the municipal system to handle the wastewater generation anticipated.
13. The Project will connect to the municipal water system for domestic and fire protection water supply with a demand of 50,270 gallons per day. The Project will connect to the existing 12" water main located parallel to Route 1 via a proposed 12" water main into the site. Additionally, the Applicant has agreed to loop the water main to Cliff Road. The Applicant will connect a six-inch diameter water line from the Project site to the existing water line within Cliff Road. The Applicant will install a pressure-reducing valve within the Cliff Road right-of-way which will be sized to ensure that that water pressure in the existing Cliff Road water line is maintained at an acceptable level approved by the Town. The size of the pressure-reducing valve will be determined using data from a flow test of the hydrants in Cliff Road that was conducted on July 31, 2019. The Board finds that, as conditioned herein, the Project provides sufficient water supply for both the domestic and fire protection needs.
14. The Applicant proposes to construct four hundred eighty (480) parking spaces for the Project, which is in compliance with the Saugus Zoning Bylaw that requires four hundred eighty (480). The Board finds the parking provided is sufficient for the Project.
15. The Project Site is subject to the jurisdiction of the Natural Heritage Endangered Species Program of the Massachusetts Fish & Wildlife Department. The Project has been redesigned from the initial application from a four-story building to a five-story building. The Board finds that increase in height of the building is acceptable only in order to reduce the disturbed area on the site. All areas outside the disturbed areas shown on the plans shall be left in their natural state.

#### Creation of Multi-Family Rental Housing

16. The Project, as conditioned herein, will address the need for rental units, both affordable and market-rate, in the Town.

#### Traffic Assessment

17. The Board heard testimony from the Applicant and reviewed its traffic consultant's Traffic Assessment dated October 2, 2018, that the Project is expected to result in

approximately 100 vehicle trips (26 entering and 74 exiting) during the weekday morning peak hour and approximately 128 vehicle trips (78 entering and 50 exiting) during the weekday afternoon peak hour, with a total of 1,634 vehicle trips per day. The Traffic Assessment concludes that traffic impacts related to existing intersection delays and queuing as a result of the Project will be minimal compared to the daily volumes on Route 1. Route 1 is under the jurisdiction of the Massachusetts Department of Transportation (MassDOT). The Project will require an Access Permit from MassDOT. The Board finds that, as it may be conditioned by MassDOT, the Project will adequately address the concerns related to traffic.

18. The Board finds, based on the testimony and submittals of its traffic peer review consultant, that the intersection of the Project Site and Route 1 will operate as a Level of Service (LOS) F during the weekday morning and afternoon peak hours. The Board further finds that the addition of a deceleration and acceleration lanes on Route 1 may improve traffic flow and reduce queuing. However, the Board acknowledges that MassDOT has jurisdiction over Route 1, and that its own authority to address those concerns is limited.
19. The Board determines that a provision for student bus pick-up will be necessary along Route 1. However, the Board acknowledges that MassDOT has jurisdiction over Route 1, and that its own authority to address those concerns is limited.

#### Other General Findings

20. The Board finds that granting a Comprehensive Permit, with the conditions and waivers contained below, is consistent with local needs.
21. The Board finds that the conditions imposed in Section IV of this Decision are necessary in order to address Local Concerns. The Board finds that such conditions will not render the Project uneconomic (as defined in 760 CMR 56.02). Moreover, to the extent that such conditions may render the Project uneconomic, the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
22. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting any waivers may have an adverse impact on Local Concerns.
23. The Board acknowledges concerns raised by abutters and other interested parties about the Project's potential incompatibility with abutting residential uses, including concerns relating to increased traffic, blasting, water pressure and possible impacts to wildlife and Prankers Pond. The Board has addressed these concerns by the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately address these matters of local concern in a manner that outweighs the regional need for affordable housing. The Board finds that the conditions imposed below addresses local and regional housing needs while properly protecting valid issues of local concern.

24. The Board finds that the construction of the Project, as conditioned, will be consistent with local needs.

#### IV. CONDITIONS

This Comprehensive Permit shall be dependent upon compliance with all of the following terms and conditions:

##### **A. REGULATORY CONDITIONS.**

1. The total number of dwelling units that may be constructed at the Premises shall be limited to 300 dwelling units, with an approximate mix of 29 studios, 100 one-bedroom, 36 one-bedroom with a den, 87 two-bedroom, 17 two-bedroom with a den and 31 three-bedroom units, as shown on the Plans of Record dated June 20, 2019 and supporting documentation.
2. At least 25% of the dwelling units in the Project shall be and shall remain affordable and shall be marketed to eligible households whose annual income may not exceed 80% of area median income (AMI), adjusted for household size, as determined by the United States Department of Housing and Urban Development (the “Affordable Units”). Subject to approval by the Commonwealth’s Department of Housing and Community Development (“DHCD”), the Affordable Units and the remaining units shall be eligible to be included in the Town’s Subsidized Housing Inventory (SHI), as maintained by DHCD.
3. The Applicant shall notify the ZBA and the Town Manager when building permits are issued and cooperate with the preparation of request forms to add the units to the SHI.
4. The Applicant shall notify the ZBA and the Town Manager when occupancy permits are issued and cooperate with the preparation of request forms to add the units to the SHI permanently.
5. The Affordable Units shall permanently remain affordable, for so long as the Project is not in compliance with the Town’s Zoning By-law, or for the longest period allowed by law, if longer, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23.
6. The Affordable Units shall be dispersed throughout the Project as designated by the Applicant by agreement with the Subsidizing Agency. The Affordable Units and the market rate units shall be constructed on substantially the same schedule. No building shall contain less than a roughly proportional share of the Affordable Units. The Affordable Units shall be indistinguishable as viewed from the exterior from the market rate units. The Applicant will strive to have the affordable units match the base interior fit-up of the market rate units.
7. The Applicant shall execute a Regulatory Agreement that shall be countersigned by the Subsidizing Agency as required under G.L. c.40B and submit annual reports to the Subsidizing Agency in accordance with the Regulatory Agreement.

8. The Affordable Units shall not be segregated from the market rate units. The Project is intended to be occupied in phases. The Applicant shall provide to the ZBA a construction/occupancy phasing plan reflecting that 25% of the units in each such phase shall consist of affordable units.
9. The Applicant shall recertify to the Subsidizing Agency, annually or less frequently as may be required by the Subsidizing Agency, the continuing eligibility of any tenant in an affordable unit. If a previously eligible tenant becomes ineligible to occupy an affordable unit, the Applicant may charge the tenant a market rate rent; however, the Applicant shall comply with the Subsidizing Agency's requirements for converting another unit to an Affordable Unit. Upon request, the Applicant shall provide the Town with all necessary information to determine whether the required affordability levels are in place.
10. The Applicant shall enter into a Springing Regulatory Agreement with the Town, in a form and substance reasonably acceptable to the Subsidizing Agency, the ZBA and its legal counsel (the "Springing Regulatory Agreement"), which shall be recorded with the Essex County Registry of Deeds prior to issuance of any building permit for the Project. ZBA endorsement of said Springing Regulatory Agreement shall not be unreasonably withheld.
11. The Springing Regulatory Agreement: (i) shall become effective only if and when the Regulatory Agreement with the Subsidizing Agency is terminated, expires or is otherwise no longer in effect and is not replaced with another regulatory agreement with another Subsidizing Agency; (ii) shall require that the Project shall remain a rental project so long as the Project does not comply with the Town's Zoning By-law; (iii) shall require that at least twenty-five (25%) percent of the apartments in the Project shall be rented in perpetuity to moderate income households as that term is defined in G.L. Chapter 40B, Sections 20-23; (iv) shall restrict or limit the dividend or profit of the Applicant only if and as required under G.L. c.40B and 760 CMR 56.00, et seq., and no independent limitation on dividends or profits is imposed hereunder; and (iv) shall restrict the number of allowed units and bedrooms (within a 5% deviation) as set forth in the Comprehensive Permit. If the Comprehensive Permit is modified in the future, the Applicant shall request a modification of the Springing Regulatory Agreement to conform to the Permit as modified.
12. The Springing Regulatory Agreement shall constitute a restrictive covenant recorded against the Property and shall be enforceable by the Town. It shall require that the Affordable Units remain affordable rental units in perpetuity, meaning for as long as the Project does not comply with the Town's Zoning By-law or for the longest period allowed by law, whichever period is longer.
13. While the original Regulatory Agreement with the Subsidizing Agency (or one with another Subsidizing Agency) is in effect, the Subsidizing Agency shall be responsible to monitor compliance with affordability requirements pursuant thereto. However, the Town may request, and shall be provided by the Applicant, all information that is provided to the Subsidizing Agency, and it may take any steps allowed under G.L. c.40B and 760 CMR 56.00 in relation to excess profits and enforcement of affordability provisions.

14. When the Springing Regulatory Agreement takes effect, the affordability requirements shall be enforceable by the Town or its designee to the full extent allowed by G.L. Chapter 40B, Sections 20-23.
15. Conditions A.10 to A.14, above, shall not be used or construed or otherwise exercised in conflict with the holdings in *Zoning Board of Appeals of Amesbury v. Housing Appeals Committee*, 457 Mass. 748 (2010), or any other relevant decisional law or amendment to G.L. Chapter 40B, §§20-23, nor shall the foregoing be deemed to limit the Town's authority to enforce the provisions of this Comprehensive Permit in accordance with the legal exercise of its zoning enforcement powers. At such time as the Town becomes responsible for monitoring the affordability requirements for the Project, the Applicant shall provide the Town with a reasonable monitoring fee reasonably consistent with the monitoring fees required by the Subsidizing Agency.
16. To the extent allowed under G.L. c. 40B and the regulations promulgated thereunder and other applicable law, with respect to at least 70% of the affordable units, the Applicant shall provide a preference category for Saugus residents as follows:

Residents of Saugus  
Parents and children of Saugus residents  
Veterans  
Employees of the Town  
Employees in the Town

The Town shall be responsible for providing the Applicant with all necessary information and data to support the local preference request within 30 days of a written request for information. This preference shall be implemented by the Applicant, and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town for compliance with the local preference set forth herein. The foregoing local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units, shall be borne by the Applicant.

17. The Applicant shall submit to the ZBA a report on marketing activity at the Project during the initial lease-up of the Project demonstrating compliance with the local preference requirement pursuant to the plan approved by the Subsidizing Agency as set forth below.
18. The ZBA acknowledges that it will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and the Applicant shall not be in violation of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. If the ZBA or its designee does not provide such information without good cause within thirty (30) days of a written request by the Applicant, its Lottery Agent, the Subsidizing Agency or DHCD, then this condition shall be void.



19. The Applicant shall develop a marketing plan for the Affordable Units for review and approval of the Subsidizing Agency, said plan to conform to any and all affirmative action requirements or other requirements imposed by federal or state regulation.
20. If at any time the ZBA finds, after a hearing of which the Applicant has been given prior notice, that the Applicant is in violation of the affordable housing restriction with the Town when said restriction is in effect as described above, the ZBA may pursue such enforcement rights as it may have under the affordable housing restriction and applicable law.
21. Profits from the Project in excess of those allowed under applicable law and regulations shall be utilized as provided in the regulatory agreement with the Subsidizing Agency and as required and provided for under G.L. c.40B and 760 CMR 56.00.
22. The Applicant shall annually provide the ZBA or its designee for informational purposes copies of any and all documents and statements of its costs and revenues that it provides to the Subsidizing Agency or its designated auditor.
23. The Town, by and through the ZBA or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.
24. Prior to receiving any building permit, the Applicant shall obtain Final Approval from the Subsidizing Agency pursuant to 760 CMR 56.04(7) and shall provide evidence of such Final Approval to the Building Commissioner and the ZBA.

**B. GENERAL CONDITIONS.**

1. Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition B.1., which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project (“Approved Plans”). Minor changes to the Approved Plans (e.g., changes that do not materially affect the location of, or increase the height or massing of the structures, or increase the number of units contained in the residential building) shall be submitted to the Building Commissioner, who shall have the authority to approve such changes as immaterial changes. If the Building Commissioner determines that the proposed changes do not conform to the requirements of this Comprehensive Permit, she shall so notify the Applicant and the Applicant shall either bring the plans into conformance with this Decision or seek modification in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following:
  - (a) Site Development Plans for Saugus Ridge, prepared by Allen & Major, revised through June 20, 2019;
  - (b) Landscape Plan of Saugus Ridge prepared by Verdant Landscape Architecture. Architectural Plans Saugus Ridge prepared by The Architectural Team, Inc.

2. The Project shall conform to all applicable state and federal laws, codes, regulations, and standards including, but not limited to, the following:
  - (a) International and Massachusetts Building, Plumbing, Fire Protection, Elevator, Access and Electrical Codes;
  - (b) The Massachusetts Wetlands Protection Act (M.G.L. c. 131 §40) and the associated Regulations (310 CMR 10.00) and approval as may be granted by the Saugus Conservation Commission or MassDEP;
  - (c) The Massachusetts Endangered Species Program;
  - (d) Massachusetts Department of Environmental Protection Wastewater Regulations;
  - (d) EPA and DEP Stormwater requirement and accepted industry best management practices for construction of the drainage infrastructure; and
  - (e) U.S. Army Corps of Engineers Regulatory Program under Section 404 of the Clean Water Act.
  - (f) The Massachusetts Historical Commission's applicable regulations.
3. There shall be no exterior construction activity, including running, idling or fueling of vehicles, on the Project Site before 7:00 a.m., or after 6:00 p.m., Monday through Friday and before 8:00 a.m. or after 6:00 p.m. on Saturday. There shall be no construction or other activity on the Premises on the following days unless a special approval for such work has been issued by the Saugus Police Department: Sundays or the following legal holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and Christmas. The hours and days of operation shall be enforceable by the Saugus Police Department.
4. All utilities within the Premises shall be installed underground except for those required by private utility companies to be above ground such as transformers, switch gear and pull boxes.
5. The interior and exterior of all buildings and structures shall be constructed substantially as represented the Approved Plans.
6. The Project shall be served by the municipal water and sewer system, at the Applicant's sole expense. All facilities shall be installed as shown on the Approved Plans.
7. The Project shall be subject to the review and approval of MassDOT. The Applicant shall return to the ZBA for approval of any substantial or insubstantial changes resulting from MassDOT's approval.

8. The Applicant shall pay the sum of Two Hundred Fifty One Thousand, Three Hundred Fifty Dollars (\$251,350.00) to the Town of Saugus for removal of inflow and infiltration from the Saugus public sanitary sewer system, reflecting a per gallon contribution of Five Dollars (\$5.00) for the estimated daily flow of 50,270 gpd. The Applicant shall also pay the Town Fifty Thousand Dollars (\$50,000.00) at the issuance of the first certificate of occupancy in order to provide protection of the municipal pump station from potential capacity issues. All water and wastewater infrastructure facilities for the Project shall be constructed and fully operational prior to the issuance of the first occupancy permit for the Project.
9. All lighting for the Project shall be shielded and directed so as to avoid light trespass exceeding 0.5 foot candles at any residential property line or unshielded sources of light visible from public ways or adjacent residential properties unless otherwise noted on the Plans of Record, with the exception of the property line between 720 Broadway and Map D10, Lot 5.
10. Landscaping shall be installed in accordance with the Approved Plans prior to issuance of a certificate of occupancy.
11. Final design plans for the storm water management system shall comply with Department of Environmental Protection regulations and the requirements of TetraTech, the ZBA's stormwater peer review engineer.
12. All utility work and roadwork within any public right of way shall be performed and conducted in conformance with the regulations of the Town and MassDOT, if applicable, including requirements for street opening permits and trench permits. Contractors shall be duly licensed as required by the Town of Saugus. All such work shall be performed in accordance with the Approved Plans..
13. Any internal sidewalk and street trees to be planted adjacent to the sidewalk shall be installed before issuance of the final occupancy permit for the Project.
14. All structures and site improvements within the Project site shall remain private in perpetuity, including any and all ways, parking areas, street lighting, drainage, buildings, sewer and water infrastructure, and the Applicant shall bear the cost of maintenance, repairs, replacement, snow plowing and trash removal for same in perpetuity.
15. The Applicant shall provide 24/7 monitoring of the Project, either by on-site management or by an off-site management entity that is available by phone 24/7. If the Applicant engages a management company, the Applicant shall post the name and telephone number of that company in each wing of the building in a prominent place. It shall provide the ZBA and Town a copy of any management contract.
16. The Project shall be sprinklered in accordance with applicable state and NFPA standards, including attics and storage spaces. The Applicant shall submit final fire alarm/sprinkler plans in compliance with applicable codes to the Fire Chief for review and approval.

17. The Applicant shall ensure that all underground water pipes shall have watertight joints.
18. No Certificate of Occupancy for any phase shall be issued until the infrastructure or common facilities or common improvements specified in this Decision and set forth on the Plans of Record are constructed and installed so as to adequately serve said phase, or adequate security has been provided, reasonably acceptable to the Building Commissioner and approved as to form by the ZBA's legal counsel, to ensure the completion of such improvements. No such performance guarantee shall be requested until all drainage facilities and the base course of the pavement have been installed. The choice of performance guarantee shall be governed by the provisions of G.L. c. 41, § 81U (excluding the statutory covenant which shall not apply in this matter) and shall be approved as to form by the ZBA's legal counsel. The Applicant shall have all statutory choices of performance guarantees available under G.L. c. 41, §81U at all stages of construction up until request for the final certificate of occupancy. The Applicant acknowledges that a letter of credit is not a suitable form of surety under G.L. c.41, §81U, ¶7.
19. Final drawings showing on-site water distribution system and wastewater system shall be submitted to the Public Works Director. The design of the water system shall include a pressure reducing valve to be installed within the Cliff Road right-of-way which will be sized to ensure that that pressure of the water within the existing Cliff Road water line is maintained at an acceptable level as approved by the Town. The size of the pressure reducing valve will be determined using data from the July 30, 2019 flow test of the hydrants in Cliff Road, performed by the Applicant's Engineer. The Public Works Director shall forward the design, plans and results of the flow test to the Town's water system peer review engineer (CDM, Inc.) who will review the material and enter the information to the town's water system model for acceptance of the design pressure of the Cliff Road water main. The Applicant shall be responsible for the cost of CDM's review. All of the proposed work will meet local requirements and will be performed with the approval of the Saugus Department of Public Works prior to the issuance of a certificate of occupancy for Saugus Ridge. A Final Certificate of Occupancy for the Project shall not be issued until the Cliff Road water main connection is installed, tested and activated.
20. Prior to issuance of Building Permits, the Applicant shall:
  - (a) Provide to the Building Commissioner a final Stormwater Pollution and Prevention Plan (SWPPP) to address specific sedimentation, erosion and dust control, which illustrates, at a minimum, locations of measures such as hay socks, silt fence, sedimentation basins, and all other erosion controls on the plans, and provides detailed construction sequencing and methods to protect the infiltration capacity of each detention system, all in conformance with the requirements of the Conservation Commission during the Order of Conditions process.
  - (b) Obtain a National Pollutant Discharge Elimination System General Permit (NPDES) from the United States Environmental Protection Agency as necessary for construction of the Project.

- (c) Provide procedures that outline the specific operation and maintenance measures for all stormwater/drainage facilities, including any temporary facilities that shall be employed to minimize or eliminate the threat of transmission of mosquito-borne diseases to the residents of the Project and nearby residents.
- 21. Prior to issuance of Building Permits, the Applicant shall conduct, or submit a report if completed, a hydrant flow test to determine available flow and pressure to fight a fire, and provide the results of such test to the ZBA and Saugus Fire Chief.
- 22. All blasting shall be performed in accordance with 527 CMR 1.0 as coordinated with the Saugus Fire Department. Pre-blast surveys shall be offered to all residents of Cliff Road and Anderson Way even if beyond the 250 feet requirement of 527 CMR 1.0 Section 65.9.15. The Applicant notify the Tennessee Gas Pipeline Company prior to any blasting. The Applicant shall forward all correspondence between the Applicant, blasting company, Saugus Fire Department and Tennessee Gas Pipeline Company to become part of the Project file.
- 23. Only organic fertilizers pesticides and herbicides shall be used on the site.
- 24. Sodium-based deicing chemicals are prohibited from use on the site.
- 25. Dumping of landscape debris, including leaves, grass clippings and brush on site shall be prohibited.
- 26. No disturbance or construction work shall be done, and no structure or pavement shall be placed, any closer to any wetland than, and tree clearing or cutting shall be limited to the extent, the Limit of Work depicted on the Plans of Record. Any future proposal to alter this condition shall require advance approval by the ZBA of a modification to the plans and this permit, except as expressly and clearly shown on the Plan of Record.
- 27. The Project shall not be gated. The Applicant shall work with the Town of Saugus to provide public access to the areas in the far northeast portion of the Project Site for continued access to the Prankers Pond area.
- 28. All grading shall be consistent with the Plan of Record.
- 29. The Applicant shall provide post-permit documents and plans required in this Decision to the ZBA. The ZBA's peer review engineers and legal counsel shall provide to the ZBA and the Applicant an estimated cost for a peer review of materials for completeness and compliance with this Decision.
- 30. Once the Applicant has provided a completed set of post-permit documents and plans and the peer review funds are in place, the ZBA shall have forty-five (45) days to obtain the necessary peer review comments and to determine whether the final design submittals and plans conform to the conditions set forth in the Comprehensive Permit.

31. If the ZBA determines that deficiencies exist in the post-permit documents and plans, it shall notify the Applicant of the deficiencies. The Applicant shall have 30 days to cure the deficiencies, which period may be extended by the ZBA.
32. If the deficiencies are not timely cured, then the ZBA may determine that the relevant conditions of the Comprehensive Permit have not been satisfied. The Applicant may avail itself of any avenue of appeal that may exist or may take further action to make additional submissions to the ZBA and its peer review consultant, to try to obtain the approval required by this condition, so long as this Comprehensive Permit has not lapsed and so long as the Applicant pays the reasonable fees of the peer review consultant.
33. The building shall be equipped with elevators that return to the ground floor when a power outage occurs.
34. The Applicant shall provide the ZBA and the Board of Health, before any occupancy permit issues, with an adequate operations plan for the storage and collection of solid waste and recycling, to make sure that odor and nuisance problems are avoided. Trucks shall collect or service the solid waste and recycling containers only during daylight hours between 7:00 a.m. and 4:00 p.m.
35. If an irrigation system is installed utilizing municipal water, it may be done only in full compliance with the specifications of the Town of Saugus.
36. All water and sewer construction and materials shall be in accordance with the requirements and specifications of the Town of Saugus.
37. There shall be no telecommunication equipment, cell arrays or antenna affixed to the roof or sides of the building.
38. 38. The Applicant shall pay the Town of Saugus Forty-Two Thousand Five Hundred Dollars (\$42,500) prior to the issuance of a Building Permit for the sole purpose of roadway paving, improved access to Pranker's Pond or other physical improvements specifically benefiting some or all of the residents of that neighborhood making improvements to the Cliff Road and Anderson Way neighborhood. The funds shall be spent at the discretion of the Board after consideration of a recommendation, if any, by the Saugus Public Works Director.
39. Further subdivision of the 28-acre parcel shall not be allowed without the approval of the ZBA per the provisions of 760 CMR 56.
40. Vehicular access to the site shall ONLY be from Route 1.
41. The discharge sewer manhole for the sewer pump station, between Kowloon and Red Roof Inn, shall be replaced prior to the issuance of a certificate of occupancy for the Project, as described in the Sewer Impact Summary dated May 15, 2019, after approval by the Town.

**C. CONSTRUCTION, INSPECTION, AND BONDING.**

1. The Applicant authorizes the ZBA and its agents to enter the Premises during construction of the Project (subject to conformance with applicable health and safety requirements, including, but not limited to hard hat, safety glasses, reflective vests and work boot requirements), upon reasonable notice, to determine conformance with this Decision.
2. The Applicant shall pay all of the ZBA's and Town's prior and outstanding peer review and legal fees, if any, within 30 days of the issuance of the Comprehensive Permit. The Applicant shall pay for all post-permit peer review, post-permit inspections, and post-permit legal fees by establishing or continuing the escrow account now established pursuant to G.L. c. 44, s. 53G. No occupancy permit shall issue if any authorized outstanding bill for any fee is 45 days overdue.
3. The Applicant shall comply with orders issued by the Building Commissioner in conformance with applicable law in conjunction with construction of the Project, subject to the Applicant's rights of appeal under applicable law.
4. Work and activities within the wetland buffer zones as defined by 310 CMR 10.00 shall be governed by the Conservation Commission.
5. With respect to the work to be done by Applicant on private ways within the Property, no certificates of occupancy shall be issued by the Town until the Applicant has substantially completed all site drainage and utility work appurtenant to any portions of the site for which an occupancy permit is to be issued and has installed a binder course of pavement on driveways and parking areas within the Property.
6. To the extent that landscaping for the Project is not completed prior to the issuance of the first certificate of occupancy, the Applicant shall provide the ZBA a satisfactory surety instrument, that shall not expire unless and until it is satisfactorily replaced or released, in an amount to be determined by the ZBA based upon the Applicant's reasonable estimate of the costs to complete such landscaping work.
7. The work to be secured shall include any landscape screening and fencing along the Limit of Work boundary.
8. In addition, the Applicant shall provide surety sufficient to loam and seed any disturbed areas which are yet to be developed per the Approved Plans. Such surety shall be held by the Town Treasurer until the Treasurer is notified by the ZBA to release the surety. Requests to reduce the surety may be submitted as the landscaping work progresses and shall include the amount of requested reduction, a list of work outstanding and a cost estimate of the same. The amount of the surety retained shall be based on the cost estimate of the remaining work, and the surety shall be fully released upon the completion of the landscaping work.

9. Prior to the issuance of any building permit, the Site and Engineering Plans, finalized as necessary as provided in this Decision, shall be signed and sealed by a Massachusetts Professional Engineer and a Massachusetts Registered Landscape Architect and filed with the ZBA and the Building Inspector, and shall include the following:
  - (a) Grading Drainage and Utilities, including on-site utilities and connections to utilities in adjacent public ways, which shall conform to all requirements of municipal departments or private utility companies having jurisdiction and to all applicable codes;
  - (b) Stormwater Pollution and Prevention Plan (SWPPP) notes that address mitigation of sedimentation and erosion, including details relating to any temporary drainage basins;
  - (c) Letter from the Project architect confirming that the Project complies with Architectural Access Board (AAB) Regulations; and
  - (c) Plans as described herein for the installation of the sewer manhole at the Kowloon Restaurant and looping of the water main to Cliff Road.
  - (d) A Final Landscape Plan.
  - (e) A Blasting Plan.
10. Prior to starting any Authorized Activity, the Applicant and the general contractor shall hold a preconstruction meeting with the DPW Director, Building Inspector, Conservation Agent, and Highway Superintendent representative to review this Decision.
11. Prior to starting any Authorized Activity, the Applicant shall provide to the Building Commissioner:
  - (a) the company affiliation, name, address and business telephone number of the construction superintendent who shall have overall responsibility for construction activities on the site;
  - (b) a copy of a municipal lien certificate indicating that all taxes, assessments and charges due on the Premises have been paid;
  - (c) certification that all required federal, state and local licenses and permits have been obtained;
  - (d) proof that "Dig-Safe" has been notified at least 72 hours prior to the start of any site work;



- (e) proof that street signage is in place to ensure that emergency personnel can locate the site to provide emergency services to protect and secure the site and construction personnel; and
  - (f) at least 48 hour written notice. If activity on site ceases for longer than one month, 48 hour written notice shall be given prior to restarting work.
- 12. During construction the Applicant shall cause all erosion control measures to be in place and shall cause all materials and equipment to be secured. Upon completion of all work on site and prior to As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the ZBA shall be notified in writing of the final disposition of the materials.
- 13. Within ninety (90) days of the issuance of the certificate of occupancy, the Applicant shall submit to the ZBA two sets of As-Built Plans for all infrastructure improvements and, if applicable, evidence of compliance with this Comprehensive Permit and any other permits required for the construction of the improvements contemplated by this Comprehensive Permit. The As-Built Plans shall be provided both in paper form and as AutoCAD plans, in a version approved by the Town Engineer so as to be compatible with the Town Engineer's software and hardware. The site engineer of record shall provide a written description of any material deviations from the Building Permit plans and shall certify that work has been completed in substantial conformance with the approved plans.
- 14. All catch basins and detention basins shall be cleaned at the end of construction. Thereafter, the Applicant and/or Applicant's management company shall be responsible for maintaining the site's storm-water management system in accordance with generally accepted practices.
- 15. A plan to implement adequate erosion and sedimentation control measures as required by any Order of Conditions shall be submitted by the Applicant to the Conservation Administrator for approval. Said measures shall be maintained throughout the Project and until all disturbed areas have been permanently stabilized with either an adequate vegetative or asphalt cover in accordance with the Plans of Record.
- 16. Any soil testing shall be done by a Massachusetts Registered Professional Engineer in locations confirmed with the ZBA's consulting civil engineer.
- 17. The Applicant shall be permanently responsible for the following aspects of the Project:
  - (a) all plowing, sanding, and snow removal. Snow shall be piled in designated locations as shown on the Approved Plans or alternate locations acceptable to the Fire Chief. If snow impairs roadways such that the travel area is less than eighteen feet wide, and all designated snow removal locations have been exhausted, the Applicant, at the direction of the Fire Chief, shall cause snow to be transported from the Project to an off-site location for legal disposal;

- (b) maintaining the site and establishing a regular schedule for site maintenance;
  - (c) repairing and maintaining all on-site roadways, including drainage structures and utilities therein and the infrastructure within the Project;
  - (d) maintaining all any and all easements shown on the Plans; and
  - (e) site lighting.
18. Prior to issuance of the first certificate of occupancy, the Applicant shall obtain approval from the U.S. Postmaster of any location to be used for mail boxes and parcel delivery.
  19. Prior to commencing Authorized Activity, the Applicant's final construction plans shall provide that the construction of the Project shall be performed in accordance with all applicable laws and regulations regarding noise, vibration, dust, sedimentation control and blocking of Town roads, and the Applicant shall install aprons at entry points and provide for dust control in the form of sweeping and spraying of water whenever necessary.
  20. No stumps or construction debris shall be buried or disposed of at the Property.
  21. The Applicant shall use all reasonable means to minimize inconvenience to residents in the general area during construction.
  22. This Comprehensive Permit and any permit granted hereunder is granted to the Applicant and may not be transferred or assigned to any party without the approval of the Subsidizing Agency and notice to the ZBA, as required by 760 CMR 56.05(12)(b).
  23. Any changes to the Project after issuance of the Comprehensive Permit shall be reviewed and approved by the ZBA in accordance with 760 CMR 56.05 (11). The Project shall be constructed substantially in accordance with the Plan of Record. Proposed and reasonable adjustments to the Plan following the issuance of this Comprehensive Permit decision are allowed. Changes shall be submitted to the Building Commissioner who may determine whether the adjustment constitutes an adjustment or a "change". Adjustments may be approved directly by the Building Commissioner with input from appropriate department heads, if requested. Proposed insubstantial or substantial change shall be submitted to the ZBA for review and authorization in accordance with applicable regulatory provisions.
  24. Building construction may begin simultaneously with the commencement of construction of the infrastructure, but no occupancy permit shall issue until compliance with the State Building Code has been achieved.

**D. SPECIAL CONDITIONS.**

1. The ZBA's approval of this Project is for the entire 28 +/- acres. Other than the multifamily dwellings with accessory parking and the other improvements shown on the Plan of Record, no other structures or uses shall be allowed unless approved by the ZBA.
2. Final plans shall be reviewed by the Fire Department with regard to hydrant locations and access to buildings.

**E. LAPSE.**

1. This Comprehensive Permit shall lapse three years from the date that it takes final effect (i.e., the date that it is filed with the Town Clerk, subject to tolling in the event of any appeal and as provided in 760 CMR 56.05(12)(c)), unless both it is duly recorded and construction on the Project has commenced within such period.

**F. WAIVERS.**

1. The Applicant shall comply with the State Building Code and the Town of Saugus Zoning By-law as of the date this Application was filed with the ZBA, and all other local development controls as of the date of this Application, except as expressly waived and provided for herein. Any waiver not expressly granted or not shown on the approved Plan of Record is hereby not granted. Grant of the Comprehensive Permit and the Waivers is expressly conditioned upon compliance with all of the conditions of approval.
2. The Board granted all the Waivers in Exhibit B except the following, which are denied:

Section 6.9	HOUSE NUMBERING	Denied as is determined by the Saugus Fire Department.
Section 7.3(4)	TEMPORARY SIGNS	Denied for lack of detail. Applicant may submit temporary sign detail to the Board For future reconsideration.
Section 10.6	BUILDING FEES	Denied. Applicant shall pay all Building Permit Fees for all units.
702	WATER / WATER SERVICE CHARGES	Denied. Applicant shall pay all water charges.

**G. VALIDITY OF PERMIT.**

This permit shall not be valid until recorded with the Registry of Deeds and evidence of such recording is provided to the Building Inspector and the ZBA. Any modification of this permit shall be subject to 760 CMR 56.07(4) or any successor regulation thereto. Any person aggrieved by this decision may appeal to a court of competent jurisdiction within 20 days as provided by G.L. c. 40A, § 17 or G.L. c. 40B, § 20 et seq., as applicable.

## SAUGUS ZONING BOARD OF APPEALS

By: \_\_\_\_\_, **Chairman**

On \_\_\_\_\_, 2019, the Zoning ZBA of Appeals voted to authorize Chairman \_\_\_\_\_ to execute the decision on behalf of the ZBA.

Filed with Town Clerk on: \_\_\_\_\_, 2019

Sent to Applicant, certified mail, on: \_\_\_\_\_

Notices to interested parties mailed on: \_\_\_\_\_