



City of Somerville

# ZONING BOARD OF APPEALS

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

## DECISION

**PROPERTY ADDRESS:** 299 Broadway  
**CASE NUMBER:** P&Z 22-092

2023 FEB 14 P 4: 05

**OWNER:** Comar Real Estate Trust & Second Comar Real Estate Trust  
89 Winchester St., Brookline, MA 02446

CITY CLERK'S OFFICE  
SOMERVILLE, MA

**APPLICANT:** Mark Development LLC, 275 Grove St., Suite 2-150,  
Newton, MA 02466  
Beacon Communities LLC, 2 Center Plaza, Suite 700,  
Boston, MA 02108  
RISE Together LLC, 12 Ericsson St., Boston, MA 02122

**REQUIRED PERMIT:** Comprehensive Permit under MGL 40B, §§20-23 (the "Act")  
**DECISION:** Approved with Conditions  
**DATE OF VOTE:** February 1, 2023  
**DECISION ISSUED:** February 14, 2023

This decision summarizes the findings made by the Zoning Board of Appeals (the "Board") regarding the Comprehensive Permit application submitted for 299 Broadway.

### LEGAL NOTICE

Applicants, Mark Development LLC and Beacon Communities Services LLC and RISE Together LLC seek a Comprehensive Permit under M.G.L. Chapter 40B. The proposal would create a total of 288 residential units in two (2) new residential buildings, and two (2) new civic spaces. The Applicants are requesting waivers from various sections of the City's ordinances and requirements, including but not limited to waivers related to the following sections of the SZO: building massing and setbacks; screening requirements; and on-street parking in transit areas.

### SUMMARY OF PROPOSAL

The Applicants are proposing to construct two 6-story, PHIUS Passive House Certifiable and LEED Gold Certifiable General Buildings, and two civic spaces. The proposed development will produce 288 dwelling units of which 132 are affordable units; approximately 13,643 square feet of commercial space, including 766 square feet of Arts & Creative Enterprise ("ACE") space; approximately 3,000 square feet of community space; 0 motor vehicle parking spaces (for the proposed development); 293 long-term bicycle parking spaces; 46 short-term bicycle parking spaces; and two publicly accessible civic spaces (including one pocket plaza and one pocket park) and publicly accessible pedestrian walkways.

## RECORD OF PROCEEDINGS

On December 14, 2022, the Zoning Board of Appeals held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Clerk Katherine Garavaglia, Anne Brockelman, Ann Fullerton, Alternate Brian Cook, and Alternate Sisia Daglian. The Applicant team provided an overview of the proposed development project, including a summary of the proposed buildings, civic spaces, and additional site improvements project benefits. The Board received public comments, and then continued the public hearing.

On January 4, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Anne Brockelman, Zachary Zaremba, Alternate Brian Cook, and Alternate Sisia Daglian. Zachary Zaremba was absent from the hearing on December 14, 2022, but submitted an affidavit confirming review of the evidence, and was able to participate in the decision. The Applicant team provided a brief summary of the discussion at the previous meeting and then provided a detailed review of the proposed buildings, including design, sustainability strategies, traffic and mobility strategies, and housing unit breakdown and affordability. The Board asked questions about the project and the Applicant team responded. The Board received public comments and then continued the hearing.

On January 18, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Clerk Katherine Garavaglia, Anne Brockelman, Ann Fullerton, Zachary Zaremba, Alternate Brian Cook, and Alternate Sisia Daglian. Clerk Katherine Garavaglia and Ann Fullerton were absent from the hearing on January 4, 2023, but submitted affidavits confirming review of the evidence, and were able to participate in the decision. The Applicant team provided a brief summary of the discussion at the previous meetings and then provided a detailed review of the proposed civic spaces and how they would be integrated with the site. The Applicant team then reviewed their proposed retail strategy for the site. The Board received public comments and then asked questions about the project, with the Applicant team responding. The Board continued the hearing.

On February 1, 2023, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Chair Susan Fontano, Clerk Katherine Garavaglia, Anne Brockelman, Ann Fullerton, Zachary Zaremba, Alternate Brian Cook, and Alternate Sisia Daglian. The Applicant team provided a brief summary of the discussion at the previous meetings and stated that they had completed their presentation on their proposal and were ready to answer questions. The Board received public comments and then asked questions of the Applicant and OSPCD Staff. Following the discussion, Clerk Katherine Garavaglia moved to approve the proposed Comprehensive Permit with the requested waivers, with the findings and conditions listed below.

## FINDINGS

### ***Consistent with Local Needs***

The City has submitted the General Land Area Minimum (GLAM) analysis to the Department of Housing and Community Development (DHCD) and the Applicant. According to 760 CMR 56.03(3)(b), a municipality has achieved one of the Statutory Minima if properties listed on DHCD's most recent Subsidized Housing Inventory (SHI) account for more than 1.5% of a municipality's General Land Area. In Somerville, properties listed on the most recent SHI (excluding group homes and those with unlisted addresses) account for over 2.5% of the City's General Land Area, far exceeding the 1.5% minimum. Therefore, the Board finds that this decision is Consistent with Local Needs, as defined by 760 CMR 56.02.

In addition, the Board finds the decision to approve the Comprehensive Permit application with conditions is Consistent with Local Needs, as defined by 760 CMR 56.02, as such a decision balances local concerns (particularly those related to good urban and architectural design, the promotion of sustainable modes of transportation, the creation of accessible open spaces, and the use of sustainable building practices) with the regional need for additional affordable housing.

### ***Other Findings***

The Somerville Zoning Ordinance and the Zoning Board of Appeals' Rules of Policy and Procedure do not require any specific findings for Comprehensive Permits. However, the Board considered the following review criteria found elsewhere in the Zoning Ordinance while reviewing this project and made the following findings:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The proposal is generally consistent with the City's comprehensive plan, SomerVision 2040. The proposal:

- Expands general and affordable housing in the city, including ADA-compliant affordable housing, and increasing the proportion of affordable housing in the city;
- Promotes sustainable development by ensuring both buildings are either certifiable as PHIUS+ from the Passive House, or LEED Platinum;
- Creates new publicly accessible gathering spaces, both outdoors in the new Sewall Park Pocket Park and new Pocket Plaza, and indoors in the Community Room;
- Promotes non-vehicular modes of travel by providing bicycle parking, supporting transit ridership, and discouraging single occupancy vehicles by providing no on-site parking for residents; and
- Creates new commercial and ACE spaces to house new businesses and ACE uses.

The proposal is generally consistent with the 2016 Winter Hill Neighborhood Plan. The proposal:

- Expands affordable housing, specifically surpassing the goal of 200 total units and 40 affordable units for the site;
- Using a design that breaks up the block and appears to be multiple smaller buildings instead of two larger ones;
- Creates publicly accessible open spaces and a community room that are sufficiently intimate to create connections within the community, and additional green spaces within the site;
- Creates multiple new commercial spaces that are of appropriate sizes for businesses that may provide neighborhood services; and
- Reduces the number of curb cuts and supports pedestrian and bicyclist activity.

The proposal is generally consistent with the 2021 Winter Hill Urban Renewal Plan. The proposal:

- Improves Winter Hill's identity as a neighborhood-oriented main street commercial district by creating mixed-use development with six (6) new commercial units;
- Creates green and open gathering spaces through the creation of two (2) publicly accessible civic spaces, one community room for public use, and publicly accessible pedestrian paths that connect the different portions of the site;
- Increases tree coverage and native plantings that reduce urban heat island effect and support biodiversity;
- Improves the pedestrian- and bike-friendly experience by expanding bike facilities and pedestrian pathways;
- Expands affordable housing at levels that will meet the needs of people of a wide range of abilities, income levels, and household types; and
- Redevelops a vacant site in a transformative manner.

2. *The intent of the MR6 and MR4 zoning districts, and, to a lesser degree, the NR zoning district.*

The intent of the MR-6 zoning district is to “accommodate the development of areas appropriate for moderately scaled multi-unit, mixed-use, and commercial buildings; neighborhood-, community-, and region-serving uses; and a wide variety of employment opportunities.” The intent of the MR-4 zoning district is to “create, maintain, and enhance areas appropriate for smaller scale, multi-use and mixed-use buildings and neighborhood serving uses.”

The proposed redevelopment of 299 Broadway directly accomplishes the intent of the MR-6 district by creating two moderately scaled multi-unit, mixed-use buildings, including multiple commercial/retail spaces that will serve the neighborhood and community, as well as two neighborhood-serving civic spaces. The redevelopment plan also maintains the intent of the MR-4 district by creating mixed-use buildings that are stepped down in scale within the MR-4 district and supporting a more neighborhood-focused atmosphere. The redevelopment significantly improves a blighted site and

creates housing, commercial space, and civic/community space that blends with the neighborhood and provides much-needed amenities.

Two smaller portions of the site are within the NR zoning district. The intent of the NR district is to “conserve already established areas of detached and semi-detached residential buildings.”

The proposed redevelopment supports the intent of the NR district; one of the portions of the site transforms a vacant space into a neighborhood-serving pocket park, which will be publicly accessible from both Sewall Street and within the site. The proposed redevelopment will replat the other portion of the site that is zoned NR to be a separate parcel that will be deeded to the City for affordable housing, which will maintain the character of the neighborhood.

*3. Mitigation proposed to alleviate any impacts attributable to the proposed development.*

The Applicant and the City have closely communicated to ensure that any potential negative impacts from the site construction or redevelopment are appropriately mitigated. The Applicant has proposed a range of mobility management strategies to support non-vehicular modes of transportation and made a proposal that addresses the community’s goals without causing undue impacts. The proposal, along with the conditions of approval, sufficiently mitigate impacts attributable to the proposed development.

*4. Proposed development phasing.*

The project will be constructed in two phases. Phase 1 will include (a) demolition of existing buildings on the site, (b) land platting, and (c) all necessary site work, ground improvements, underground utilities, and construction of Building B on Lot 2, for a total of 173 dwelling units including 17 Affordable Dwelling Units (at 80% AMI) and 156 market-rate units, 3 retail/commercial spaces, and associated site improvements.

Phase 2 will include the construction of the pocket plaza on Lot 2, the pocket park on Lot 1, Lot 3 paving and ground improvements, and all necessary site work, ground improvements, underground utilities, and construction of Building A on Lot 1. This phase would include the construction of the remaining 115 units (all of which will be affordable), 3 retail/commercial spaces, ACE space, and the community room. At the end of Phase 2, there will be a total of 288 units, of which approximately 46% will be affordable. Phase 2 will also include the completion of any remaining work necessary to achieve the project as proposed to the Board.

Dividing the project into two phases will support financing for construction for the affordable units and civic spaces, as well as other site amenities. It will also reduce the potential impacts on traffic during construction.

5. *The supply and demand of on-street parking in the neighborhood, as determined through a parking study.*

The Applicant is balancing competing goals of facilitating alternative modes of transportation and requesting a waiver to permit up to 50% of market-rate units to participate in the Somerville Residential Permit Parking Program, in order to attain financing for the proposed development. Because the development is in a Transit Area, zoning allows zero on-site parking, but also prohibits resident participation in the Residential Permit Parking Program. The requested waiver would allow up to 78 on-street parking passes to be issued to households within the market rate units. The Applicant submitted a Transportation Impact Study that includes a parking study of on-street parking in the neighborhood; the study finds that the peak parking occupancy occurs on a typical weeknight, at which time the occupancy rate is roughly 75-77%. The study determined that at peak occupancy, approximately 415 on-street parking spaces are available within a five-minute walk of the Project Site, and approximately 637 on-street parking spaces are available within a ten-minute walk of the Project Site.

During the public hearing some members of the public, City Staff, and the Board expressed support of the Applicant's request for a waiver to permit up to 50% of market-rate units to participate in the Somerville Residential Permit Parking Program, with the understanding that the Applicant has agreed to multiple other strategies to disincentivize single-occupancy vehicle use and incentivize alternative modes of transportation.

6. *Mobility management programs and services provided by the Applicant to reduce the demand for parking.*

The Applicant has submitted a Mobility Management Plan (MMP) for the proposed redevelopment of the site. The Applicant has demonstrated commitment to the SomerVision priority of increasing non-auto mode share, and in addition to the minimum requirements for MMPs found in the Zoning Ordinance, the Applicant has committed to strategies including (but not limited to): providing contributions toward MBTA Charlie Cards for new tenant households; contributions toward monthly membership to Bluebikes for new tenant households or funding for infrastructure associated with Bluebikes operations; and a commitment to become an active member of any future Transportation Management Association that operates in the area.

In addition to reducing demand for vehicular parking around the site by implementing the MMP, the Applicant has signed the final MMP letter issued by the Director of Mobility on January 25, 2023, agreeing to additional conditions of approval.

7. *The ability of alternative technologies and methods of bicycle parking to provide equal or greater benefits to bicycle users.*

The Applicant's proposal includes the provision of 293 long-term, secured bicycle parking spaces, with 118 of these spaces provided within Building A and 175 of the spaces provided within Building B. Both bicycle parking rooms are located on the

ground floor of each respective building and are accessible from both the inside and outside of each building. The Applicant's proposal includes 46 short-term bicycle parking spaces that will be available for use by visitors to the site and other members of the public. No waivers are being requested related to the design of these bicycle parking spaces, and are therefore expected to comply with the design requirements established in the Zoning Ordinance, which are intended to ensure that new bicycle parking accommodates a range of users and bicycles. Additionally, a condition of approval established in the final MMP letter issued by the Director of Mobility on January 20, 2023, requires at least one (1) bicycle repair facility to be provided in a convenient location and maintained in a state of good repair. The Applicant has agreed to this condition, and tenants of both buildings will be able to access the bicycle repair facility.

*8. Impact on the experience of the public realm that would result from strict compliance to the standards of the Ordinance.*

Strict compliance with the Somerville Zoning Ordinance would limit the land platting and subsequent location of buildings and civic spaces on the site. The requested waivers allow flexibility necessary for a site with significant topographical challenges, and buildings that respond to the public realm. Strict compliance would result in a limited ability to break up the massing of each building and create pedestrian-scale designs, and would create difficulties in siting the proposed commercial units. Strict compliance would also have a negative impact on the design of Lot 1 and Sewall Park Pocket Park, as the lot would not be permitted as a through lot (in spite of creating a strong pedestrian connection from Broadway to Sewall Street), and the Pocket Park would otherwise require additional Landscaped Area and not respond to the neighborhood need for safe active and passive play spaces for children and families. Strict compliance with the Ordinance would ultimately result in a development proposal that does not so fully respond to the needs of the neighborhood and the community while creating a site that supports pedestrian activity. The current proposal, with its requested waivers from the Ordinance, will create more engaging civic spaces and commercial spaces, and will provide buildings with engaging designs and residential units that will be accessible to households with a variety of housing needs.

## **DECISION**

Following public testimony, review of the submitted plans, consideration of the facts of the case, and consideration of the statutory requirements, Katherine Garavaglia moved adopt the findings of the January 27, 2023 Staff Memo, and to approve the Comprehensive Permit and January 19, 2023 List of Waivers for 299 Broadway, subject to the 95 conditions described in the January 27, 2023 Staff Memo, as amended. Anne Brockelman seconded. The Board took a roll call vote: Susan Fontano – aye; Katherine Garavaglia – aye; Anne Brockelman – aye; Ann Fullerton – aye; Zachary Zaremba – aye. The motion passed **5-0**.

To the extent that this project or any components of it require Site Plan Approval this decision satisfies that requirement.

## CONDITIONS

### General

Perpetual:

1. Approval is for the redevelopment of the site at 299 Broadway. This Project involves lot splits and line adjustments to existing lots at 299 Broadway and 15 Temple Street to create four (4) separate lots. Lot 1 shall contain one (1) general building and one (1) civic space; Lot 2 shall contain one (1) general building and one (1) civic space; Lot 3 shall be a paved lot providing parking and access to Lot 1; and Lot 4 shall be a vacant lot. The Project will contain a total of 288 residential rental units, six (6) commercial units, one (1) unit to be dedicated to Arts & Creative Enterprise (ACE) uses, and one (1) community room.
2. Approval is based on the application materials and plans submitted by the Applicant and listed in Exhibit 2 of this decision.
3. "Applicant" shall collectively refer to Mark Development LLC, Beacon Communities Services LLC, and RISE Together LLC. The Applicant, its successors and/or assigns, are jointly and severally liable for implementation of, and compliance with, these conditions; provided, however, that if a specific entity is named in a condition, only that entity shall be responsible for compliance with such condition. Conditions assigned to a specific entity shall only be enforced against that entity. Default by a specific entity on a condition for which it is solely responsible shall have no effect on any of the other entities or such other entities' portion of the Project. Upon written notice to and approval by the Director of Planning, Preservation, & Zoning (PPZ), the entities comprising the Applicant may collectively assign responsibility for a certain condition to a single entity, or assign responsibility for a certain condition among entities, whereupon responsibility for such conditions shall no longer be joint and several. Approval of such assignment shall not be unreasonably withheld as long as such assignment is reasonably related to the assigned responsibility for particular buildings, civic spaces, or site improvements as described herein.
4. Approval is subject to the Applicant's continued eligibility for a Comprehensive Permit under M.G.L. Ch40B §§20-24. This decision is not enforceable until the Applicant has received final approval from the Department of Housing and Community Development (DHCD) or another subsidizing agency confirming project eligibility.
5. Any changes to the submitted application material listed under Condition #2 are subject to 760 CMR 56.05(11). The Director of PPZ shall determine whether



changes designed only to establish compliance with one of the conditions of this Comprehensive Permit are considered insubstantial.

6. The Board approves the Applicant's request for waivers from the ordinances and regulations listed in Exhibit 1 of this decision. All ordinances and regulations not waived by the Board as part of Exhibit 1 must be complied with. If the Applicant determines that additional waivers are necessary to construct the project, the Applicant may request additions or modifications to the approved waivers list pursuant to 760 CMR 56.05(11).
7. This Decision must be recorded with the Middlesex South Registry of Deeds.
8. This Comprehensive Permit will expire three (3) years from the date of the Board's decision, unless construction of Phase 1 of the Project has commenced. Phase 2 must begin within three (3) years of the issuance of the Certificate of Occupancy for Phase 1. The Applicant may apply to the Board for reasonable extensions to this Comprehensive Permit for good cause. This decision anticipates the phasing of the project as described in Condition #15 and depicted in Exhibit 3 of this decision.
9. Prior to applying for the first building permit, the Applicant shall enter into a Permanent Restriction/Regulatory Agreement with each subsidizing agency (each a "Chapter 40B Regulatory Agreement" and together the "Chapter 40B Regulatory Agreements") and such Agreements shall be in compliance with all applicable 40B guidance including, without limitation, 760 CMR 56.00 et seq, and recorded with the Middlesex South Registry of Deeds. The Chapter 40B Regulatory Agreements must at a minimum require that at least 25% of the units in the project or 72 units (the "Chapter 40B Affordable Units") will remain affordable in perpetuity for households with incomes at or below eighty percent (80%) of the area median income ("AMI") even if the Subsidy defined in 760 CMR 56.02 expires. The Regulatory and Operating Agreement between DHCD and the Applicant would govern all 132 affordable housing units and would guarantee affordability in perpetuity for these units, including the 72 units protected by the Chapter 40B Regulatory Agreement. All units shall remain rental units in perpetuity. The final Agreement shall be provided to the Housing Division prior to the issuance of the first building permit.
10. Prior to any Certificate of Occupancy being issued for the Project, the Applicant shall enter into a Permanent Restriction with the City of Somerville, namely, the City of Somerville Supplemental Regulatory Agreement, which may include one Agreement for each building, and such Agreement(s) shall be recorded with the Middlesex South District Registry of Deeds. The City of Somerville Supplemental Regulatory Agreement(s) will guarantee affordability in perpetuity for the 17 units up to 80% AMI, 99 units up to 60% AMI, and 16 units up to 30% AMI. These 132 units shall remain rental units in perpetuity, even if any other portion of the

project is ever converted to condominiums. The Supplemental Regulatory Agreement(s) will include alternative compliance strategies in the event of a catastrophic event or loss of subsidy for the Project buildings.

11. All 3-bedroom affordable dwelling units must comply with the Director of Housing's quality standards for 3-bedroom ADUs.
12. The City's Housing Division may, at their discretion, determine that some or all of the units in the project be eligible for inclusion in the Commonwealth's Subsidized Housing Inventory.
13. Prior to selling any of the affordable units or transferring the Comprehensive Permit to another party pursuant to 760 CMR 56.05(12)(b), the Applicant must notify the City's Director of Housing.
14. The Applicant shall provide the number and sizes of affordable units as described in "Package 01 Narrative" and repeated here:

Affordability by Building:

Unit Type	Building A	Building B	Total
Affordable (<30%AMI)	16	0	16
Affordable (<60%AMI)	99	0	99
Affordable (<80%AMI)	0	17	17
Unrestricted	0	156	156
Total	115	173	288

Site-wide Unit Size by Affordability:

Unit Type	Studio	1BR	2BR	3BR	Total
Affordable (<30%AMI)	0	4	8	4	16
Affordable (<60%AMI)	0	33	46	20	99
Affordable (<80%AMI)	2	10	4	1	17
Unrestricted	22	92	38	4	156
Total	24	139	96	29	288

15. The Project will be constructed in two phases. "Phase 1" will include the demolition of two (2) existing buildings, all land platting, and construction of Building B on Lot 2 including all necessary site work, ground improvements, and underground utilities for Building B. "Phase 2" will include the construction on Building A on Lot 1 including all necessary site work, ground improvements, and underground utilities for Building A; the Pocket Park civic space on Lot 1, the Pocket Plaza civic space on Lot 2, all paving and ground improvements to Lot 3. Phase 2 may begin prior to the conclusion of Phase 1. Exhibit 3 is hereby incorporated into this condition as a graphical depiction of the phasing plan. If Phase 2 does not begin prior to the completion of Phase 1, the site work must be completed as shown in Exhibit 3. Individual buildings and civic spaces in each phase will receive their own building/civic space permits and certificates of

- occupancy and will be subject to the relevant project, phase, and building conditions of this approval.
16. The Applicant shall, at their expense, replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheelchair ramps, granite curbing, etc.) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity due to this project. All new sidewalks and driveways must be constructed to DPW standards.
  17. All construction materials and equipment must be stored onsite.
  18. If occupancy of the street layout is required, the Applicant must submit an occupancy plan to the Parking Department and Engineering Division and the Tree Warden or Deputy Tree Warden for approval prior to occupancy. The occupancy plan must ensure occupancy is in conformance with the requirements of the Manual on Uniform Traffic Control Devices, and ensure that public shade trees are fully protected. If any tree is ever considered needed to be removed, the Applicant must request a Public Tree Removal Hearing with the Tree Warden.
  19. Throughout construction of the project, the Applicant shall provide access to the City Engineer, Building Official, and other members of City staff, acting in their capacity as a City employee, to enter and inspect the project for compliance with the Comprehensive Permit.
  20. The Project contributes to the sewer shed that flows and discharges to the MWRA Somerville Marginal Interceptor. Consistent with the City's May 2018 policy, the City will expect the Project to contribute to the City's I&I fund at the rate in effect when the project is under construction.
  21. All buildings and structures must be designed and constructed to the applicable building codes in effect at the time of each building's or structure's building permit application.
  22. Access to each building unit must comply with 527 CMR 1.00: MA Comprehensive Fire Safety Code.
  23. The Applicant and applicable future owners and tenants shall comply with the Mobility Management Plan (MMP) as approved and conditioned by the Director of Mobility on January 25, 2023.
  24. Formal acknowledgement that residents are ineligible for on-street Residential Parking Permits, subject to the regulations of the Somerville Traffic Commission, must be filed with this decision. Subject to compliance with Condition #23, this condition shall not apply to units identified as part of the approved Waiver #26, as identified in Exhibit 1 of this decision.
  25. Dwelling units must be advertised as ineligible for on-street Residential Parking Permits, subject to the regulations of the Somerville Traffic Commission. Subject

- to compliance with Condition #23, this condition shall not apply to units identified as part of the approved Waiver #26, as identified in Exhibit 1 of this decision.
26. All buyers, grantees, lessees, renters, and tenants must be notified in writing prior to sale or lease of any dwelling unit that the residents are ineligible for on-street Residential Parking Permits, subject to the regulations of the Somerville Traffic Commission. Subject to compliance with Condition #23, this condition shall not apply to units identified as part of the approved Waiver #26, as identified in Exhibit 1 of this decision.
  27. All buildings associated with the Project shall not have on-site combustion for HVAC system operation and cooking equipment (all electric systems), excluding floor area Eating & Drinking Establishment principal uses, and shall be certifiable as PHIUS+ from the Passive House Institute US or Passive House Institute.
  28. Design of all project elements within the public right of way are subject to review and approval by relevant City Staff.

Prior to first (Demolition, Building, Foundation, or Civic Space) Permit application:

29. A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation, and Zoning Division for the public record.
30. One (1) physical copy of the original application materials and one (1) digital and (1) physical copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record.
31. The Applicant shall submit a Mylar plat plan to the Director of PPZ for Minor Site Plan Approval.
32. The Applicant shall apply to the City Engineer for separate street addresses for the respective Lots. Those street addresses must be used to reference each building/lot in all subsequent applications.
33. The Applicant shall submit a Tree Protection Plan with tree protection details to the Tree Warden or Deputy Tree Warden for review and approval, and must meet with the Tree Warden or Deputy Tree Warden to discuss proper tree protection responsibilities and construction operations plans. The Tree Protection Plan must include strategies to be executed and maintained through the duration of the project to ensure the protection of existing public shade trees adjacent to the site.
34. The Applicant shall submit design and construction phasing of the stormwater management and erosion & sediment control systems to the City Engineer for review and approval to ensure compliance with City standards and best practices for design and ongoing maintenance. All Site Construction Permit rules and regulations must be complied with for Phase 1 and for Phase 2.

35. The Applicant shall submit all design and construction phasing plans for all site utilities (municipal & private) to the City Engineer for review and approval to ensure compliance with City standards and best practices for design and ongoing maintenance. The plans must clearly indicate the work proposed as part of each Phase.
36. The Applicant shall meet with the Director of Sustainability and Environment or their designee to review any updated information on the Passive House design elements of the Project.
37. At least 50% of short-term bicycle parking shall be provided on-site, unless otherwise approved by the Director of Mobility. The Applicant shall submit updated site plans providing the location of short-term bicycle parking shall be provided for review and approval by the Director of Mobility prior to the issuance of any construction permit.
38. The Applicant shall submit a scope for an updated conceptual study of Broadway adjacent to the site for review and approval by the Director of Mobility. The study shall assess future upgrades to the road and public right of way, including but not limited to crosswalk improvements and new crosswalks, and transit and bicycle facility upgrades.

Prior to first full Building Permit application for Phase 1:

39. The Applicant shall complete and submit to relevant City Staff an updated conceptual study of Broadway adjacent to the site, in compliance with Condition #38, to ensure proposed sidewalk improvements do not preclude relevant upgrades to the road and public right of way. The Mobility and Public Space and Urban Forestry Divisions may require revised streetscape designs, including but not limited to site furnishings and street trees, following the completion of the study.
40. The Applicant shall submit a wayfinding and signage plan for review and approval by the Director of Public Space and Urban Forestry. The plan must, at a minimum, identify public access and connections to the Community Room in Building A on Lot 1, Sewall Park Pocket Park on Lot 1, and the Civic Plaza on Lot 2.
41. The Applicant shall apply to the Traffic Commission to implement their proposal for parking and loading, as shown on the approved plans.

Prior to the first full Building Permit application for Phase 2:

42. The Applicant shall execute a public access easement agreement with the City relevant to all civic spaces (including the Sewall Park Pocket Park on Lot 1 and the Temple Square Pocket Plaza on Lot 2), the "mews" pedestrian path on Lots 1 and 2, and the pedestrian path from Temple Street to Sewall Park Pocket Park on Lot 1. This public access easement will, at a minimum, dedicate the civic

spaces as publicly accessible open space in perpetuity. Final easement language must be approved by the City Solicitor.

43. The Applicant shall work with the City to develop a long-term maintenance agreement for the “mews” pedestrian path. The agreement must specify the requirements for public access and private maintenance of the mews pedestrian path. The Applicant shall build out and maintain all of the mews pedestrian path in the plan as required by the SZO.
44. The Applicant shall establish a system and policy to allow Somerville residents to plan events or use the civic spaces in the same manner that they can reserve space at a Somerville public park at no charge. This policy must be approved by relevant City Staff.

Prior to application for Certificate of Occupancy for Phase 1:

45. Each unique building unit must be addressed off of a Public Way or Private Way, consistent with City regulations. Unit addressing must be approved by the Somerville Fire Department and the Somerville Engineering Division.
46. The Applicant shall file a signed Mylar plat plan with the Southern Middlesex Registry of Deeds and submit proof of filing to the Director of Inspectional Services and the Director of Planning & Zoning.

Prior to application for Certificate of Occupancy for Phase 2:

47. As established in the approved Application, the Applicant shall deed Lot 4 to the City of Somerville.

### **Building B on Lot 2 (Phase 1)**

Perpetual:

48. Building B contains a total of 173 units. The units are as follows: twenty-four (24) studio units; one hundred and two (102) 1-bedroom units; forty-two (42) 2-bedroom units; and five (5) 3-bedroom units.
49. Mark Development LLC, their successors, and/or assigns are responsible for maintenance of both the building and all on-site amenities, including but not limited to landscaping, lighting, loading areas, stormwater systems, and for ensuring they are clean, well-kept, and in good and safe working order.
50. Residents of Building A shall receive access to all common amenity areas on the ground floor of Building B.

Prior to Foundation Permit application:

51. The Applicant shall submit updated elevations that provide full architectural details and materials for review and approval by the Director of PPZ. These elevations should address, at a minimum:
  - a. Full details on all masonry and siding. All masonry shall be full depth architectural masonry units, and shall not be shallow veneer;

- b. Additional articulation of all facades to limit the amount of blank wall present;
  - c. The sill heights, window size, and glass transparency of the ground floor;
  - d. Full details on fenestration types and details, demonstrating strong articulation and providing surface relief of at least four (4) inches from the average plane of the façade by recessing windows or through other architectural articulation;
  - e. Compliance with signage as required by SZO §4.4.15.b
  - f. Full details on the location of all mechanical equipment, HVAC, and all utilities, and proposed screening, including the use of additional landscaping, building materials, or other features. No wall-mounted mechanical equipment or vents shall be visible from a Pedestrian Street.
52. The Applicant shall submit updated plans showing a revised design to the curb cut on Broadway at the eastern end of the site. The revised design must show zoning compliance and shall be approved by the Mobility and Engineering Divisions prior to the issuance of a Foundation Permit.

Prior to full Building Permit application:

53. The Applicant shall submit architectural/building materials and color samples for review and approval by the Director of PPZ.
54. The Applicant shall construct an onsite mock-up of the exterior walls of the building components for review and approval by the Director of PPZ and the Director of Inspectional Services to verify architectural quality, such as window details and masonry.
55. The Applicant shall provide a review of interior finishes, appliances, and amenities to be installed in units, demonstrating that market-rate units and affordable units in Building B are comparable in terms of materials, durability, longevity, and performance, for approval by the Director of Housing.
56. Stage 2 documentation required for PHIUS+ Passive House Certifiability Requirements and LEED Certifiability Requirements must be submitted to the Office of Sustainability & Environment. A Stage 2 Certificate of Required Materials (CRM) is required prior to the issuance of a building permit.
57. The Applicant shall submit to the Director of Public Space and Urban Forestry for review and approval:
- a. Landscape and site plans, with design and materials details on all landscaped areas, including the proposed courtyard, and including any utility cabinet locations;
  - b. A wayfinding and signage plan in accordance with Condition #40;
  - c. A planting plan and planting details, including a high percentage of native plants;
  - d. An irrigation plan; and

- e. An exterior lighting plan and luminaire schedule that complies with SZO §10.7 Outdoor Lighting, and light fixture cut sheets.
58. The Applicant shall submit all required materials for Green Score and approval by relevant City Staff.

Prior to application for Certificate of Occupancy:

59. Stage 3 documentation required for PHIUS+ Passive House Certifiability Requirements and LEED Certifiability Requirements must be submitted to the Office of Sustainability & Environment. A Stage 3 Certificate of Required Materials (CRM) is required prior to the issuance of a Certificate of Occupancy.
60. The Project Lottery will include a Local Preference for a minimum of 50% of the affordable units. The Applicant will continue to work with the Director of Housing or their designee and the Department of Housing and Community Development (DHCD) to determine a final minimum percentage of Local Preference for the affordable units, and will make best efforts to increase Local Preference to 70%.
61. The Applicant shall submit a written narrative or descriptive checklist identifying the completion of or compliance with permit conditions to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

### **Building A on Lot 1 (Phase 2)**

Perpetual:

62. Building A contains a total of 115 units. The units are as follows: thirty-seven (37) 1-bedroom units; fifty-four (54) 2-bedroom units; and twenty-four (24) 3-bedroom units.
63. Beacon Communities Services LLC, their successors, and/or assigns are responsible for maintenance of both the building and all on-site amenities, including but not limited to landscaping, lighting, loading areas, stormwater systems, and for ensuring they are clean, well-kept, and in good and safe working order.
64. Residents of Building B shall access to all common amenity areas on the ground floor of Building A.

Prior to Foundation Permit application:

65. The Applicant shall submit updated elevations that provide full architectural details and materials for review and approval by the Director of PPZ. These elevations should address, at a minimum:
- a. Full details on all masonry and siding. All masonry shall be full depth architectural masonry units, and shall not be shallow veneer;
  - b. Additional articulation of all facades to limit the amount of blank wall present;



- c. The sill heights, window size, and glass transparency of the ground floor;
- d. Full details on fenestration types and details, demonstrating strong articulation and providing surface relief of at least four (4) inches from the average plane of the façade by recessing windows or through other architectural articulation;
- e. Compliance with signage as required by SZO §4.4.15.b
- f. Full details on the location of all mechanical equipment, HVAC, and all utilities, and proposed screening, including the use of additional landscaping, building materials, or other features. No wall-mounted mechanical equipment or vents shall be visible from a Pedestrian Street.

Prior to full Building Permit application:

- 66. The Applicant shall submit architectural/building materials and color samples for review and approval by the Director of PPZ.
- 67. The Applicant shall construct an onsite mock-up of the exterior walls of the building components for review and approval by the Director of PPZ and the Director of Inspectional Services to verify architectural quality, such as window details and masonry.
- 68. The Applicant shall provide a review of interior finishes, appliances, and amenities to be installed in units, demonstrating that, to the extent financeable, affordable units in Building A are comparable to the units in Building B in terms of durability, longevity, and performance, for approval by the Director of Housing.
- 69. Stage 2 documentation required for PHIUS+ Passive House Certifiability Requirements and LEED Certifiability Requirements must be submitted to the Office of Sustainability & Environment. A Stage 2 Certificate of Required Materials (CRM) is required prior to the issuance of a building permit.
- 70. The Applicant shall work with the City to develop a long-term maintenance agreement for the pedestrian path from Temple Street to the Sewall Park Pocket Park. The agreement must specify the requirements for public access and private maintenance of the pedestrian path. The Applicant shall build out and maintain all of the pedestrian path in the plan as required by the SZO.
- 71. The Applicant shall submit to the Director of Public Space and Urban Forestry for review and approval:
  - a. Landscape and site plans, with design and materials details on all landscaped areas, including the proposed courtyard, the pedestrian path from Temple Street to Sewall Park Pocket Park, and the “mews” area, and including any utility cabinet locations;
  - b. A wayfinding and signage plan in accordance with Condition #40;
  - c. A planting plan and planting details, including a high percentage of native plants;
  - d. An irrigation plan; and

- e. An exterior lighting plan and luminaire schedule that complies with SZO §10.7 Outdoor Lighting, and light fixture cut sheets.
- 72. The Applicant shall submit all required materials for Green Score and approval by relevant City Staff.
- 73. Pedestrian pathways, including the pedestrian “mews” and landscaped path from Temple Street leading to the Sewall Park Pocket Park shall be constructed to standards that meet or exceed compliance with the Americans with Disabilities Act and the Massachusetts Architectural Access Board’s regulations. Design details must be approved by the Public Space and Urban Forestry Division and Engineering Division prior to the issuance of a Building Permit.

Prior to application for Certificate of Occupancy:

- 74. Stage 3 documentation required for PHIUS+ Passive House Certifiability Requirements and LEED Certifiability Requirements must be submitted to the Office of Sustainability & Environment. A Stage 3 Certificate of Required Materials (CRM) is required prior to the issuance of a Certificate of Occupancy.
- 75. The Project Lottery will include a Local Preference for a minimum of 50% of the affordable units. The Applicant will continue to work with the Director of Housing or their designee and the Department of Housing and Community Development (DHCD) to determine a final minimum percentage of Local Preference for the affordable units, and will make best efforts to increase Local Preference to 70%.
- 76. The Applicant shall execute a management and operation agreement with the City for the Community Room in Building A; language for the agreement must be approved by relevant departments.
- 77. The Applicant shall submit a written narrative or descriptive checklist identifying the completion of or compliance with permit conditions to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

### **Sewall Street Pocket Park on Lot 1 (Phase 2)**

Perpetual:

- 78. Permanent public access to the Sewall Street Pocket Park shall be required and maintained, in accordance with Condition #42.
- 79. The Applicant must apply for an Engineering Site Construction – Civic Space Permit.

Prior to first Civic Space Permit application:

- 80. The Applicant shall submit 100% Landscape Construction Plans and Details for the Sewall Park Pocket Park for relevant City Staff review and approval. Plans shall demonstrate full compliance with the Americans with Disabilities Act and the

Massachusetts Architectural Access Board's regulations. Plans may include but are not limited to:

- a. A landscape layout and materials plan showing the location, design, and materials of all fixtures and landscape features, including, but not limited to, plantings, play equipment, fencing, retaining walls, bicycle facilities, trash receptacles, and outdoor furniture, and including any utility cabinet locations;
- b. A planting plan, including a high percentage of native plants;
- c. A grading and drainage plan that maximizes site activity while ensuring the site remains universally accessible;
- d. A utilities plan inclusive of water, electric connections, and fixtures;
- e. An exterior lighting plan and luminaire schedule that complies with SZO §10.7 Outdoor Lighting.
- f. A wayfinding and signage plan in accordance with Condition #40;
- g. An irrigation plan;
- h. An updated permeability diagram that shows total permeable area; and
- i. A set of landscape construction details for work appearing in the above plan sheets.

Prior to application for a Certification of Occupancy for Phase 2:

81. The Applicant shall submit a long-term Civic Space Landscape Maintenance and Management Plan (LMMP) for the Sewall Street Pocket Park to the Public Space and Urban Forestry Division for review and approval. The agreement must specify the requirements for public access and private maintenance of the Pocket Park.
82. The Applicant must submit a Certified Public Playground Safety Inspection Report for record to demonstrate the play equipment and installation at the Sewall Park Pocket Park is safe for public use.
83. The Applicant shall contact the Public Space and Urban Forestry Division at least (5) five working days in advance of a request for final inspection of the Sewall Park Pocket Park to ensure the proposal was constructed in accordance with the Civic Space Permit.
84. The Applicant shall submit a written narrative or descriptive checklist identifying the completion of or compliance with permit conditions to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

#### **Broadway Pocket Plaza on Lot 2 (Phase 2)**

Perpetual:

85. Permanent public access to the Pocket Plaza shall be required and maintained, in accordance with Condition #42.

86. The Applicant must apply for an Engineering Site Construction – Civic Space Permit.

Prior to first Civic Space Permit application:

87. The Applicant shall work with the City to develop a long-term maintenance agreement for the Pocket Plaza. The agreement must specify the requirements for public access and private maintenance of the Pocket Plaza.

88. The Applicant shall submit 100% Landscape Construction Plans and Details for the Pocket Plaza for relevant City Staff review and approval. Plans shall demonstrate full compliance with the Americans with Disabilities Act and the Massachusetts Architectural Access Board's regulations. Plans may include but are not limited to:

- a. A landscape layout and materials plan showing the location, design, and materials of all fixtures and landscape features, including, but not limited to, plantings, fencing, retaining walls, bicycle facilities, trash receptacles, and outdoor furniture, and including any utility cabinet locations;
- b. A planting plan, including a high percentage of native plants;
- c. A grading and drainage plan that maximizes site activity while ensuring the site remains universally accessible;
- d. A utilities plan inclusive of water, electric connections, and fixtures;
- e. An exterior lighting plan and luminaire schedule that complies with SZO §10.7 Outdoor Lighting.
- f. A wayfinding and signage plan in accordance with Condition #40;
- g. An irrigation plan;
- h. An updated permeability diagram that shows total permeable area; and
- i. A set of landscape construction details for work appearing in the above plan sheets.

Prior to application for a Certification of Occupancy for Phase 2:

89. The Applicant shall submit a long-term Civic Space Landscape Maintenance and Management Plan (LMMP) for the Pocket Plaza to the Public Space and Urban Forestry Division for review and approval. The agreement must specify the requirements for public access and private maintenance of the Pocket Plaza.

90. The Applicant shall contact the Public Space and Urban Forestry Division at least (5) five working days in advance of a request for final inspection of the Pocket Plaza to ensure the proposal was constructed in accordance with the Civic Space Permit.

91. The Applicant shall submit a written narrative or descriptive checklist identifying the completion of or compliance with permit conditions to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

**Lot 3**

Perpetual:

92. The Applicant and applicable future owners shall comply with the Mobility Management Plan as approved and conditioned by the Director of Mobility on January 25, 2023, as it relates to Lot 3.

Prior to first (Building, Foundation, or Civic Space) Permit application for Phase 2:

93. The Applicant shall provide updated plans for Lot 3, including surface treatments that address pedestrian and bicycle circulation needs, for review and approval by the Director of Mobility and Fire Department.
94. The Applicant shall submit updated plans showing a revised design to the curb cuts on Broadway and Temple Street on Lot 3. The revised design must show zoning compliance and shall be approved by the Mobility and Engineering Divisions prior to the issuance of any construction permit for Phase 2.

Prior to application for Certificate of Occupancy for Phase 2:

95. The Applicant shall submit a written narrative or descriptive checklist identifying the completion of or compliance with permit conditions to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

**EXHIBITS**

***Exhibit 1: Approved Waivers List dated January 19, 2023***

## Exhibit 1: Approved Waivers List dated January 19, 2023

Reference #	Topic	Sub-Topic	Ordinance Section	Requirement	Relevant Lots	Requested Waiver	Details
1	Massing & Height	Story Height	2.4.4.a.viii	(A) The Ground Story is counted as one (1) Story, except that a single Ground Story of twenty-five (25) feet or more is counted as two (2) stories. (B) Interstitial space between stories is counted as an additional Story if the space has a walking surface, permanent lighting, a ceiling height of seven feet six inches (7'6") or more, or is accessed via a stairwell or elevator door.	1	Waiver from the Story Height requirements.	The community room within the Ground Story of Building A on Lot 2 has a height in excess of 25 feet. Interstitial space is located within the four residential units of Building A that are directly accessible from the pedestrian mews.
2	Uses & Features	Ground Story Commercial Space	2.4.5.b.ii	Any building fronting a Pedestrian Street must provide 1 or more Ground Story Commercial Spaces fronting the primary Façade for 100% of the total width of the building, excluding lobbies for Upper Story Uses and other required means of egress.	1	Waiver from the Ground Story Commercial Space along the Temple Street façade of Building A on Lot 1.	In addition to the Arts & Creative Enterprise Space, the façade along the portion of Temple Street that is a Pedestrian Street will include a management office and maintenance/utility room.
3	Lot Dimensions	Lot Width	4.4.8.a; 4.4	In the MR6 district, a minimum Lot Width of 30 feet is required for all building types.	2; 3	Waiver from Lot Width requirement for Lot 2 and Lot 3.	The Grant Street side of Lot 2 has a width of approximately 18 feet. The Temple Street side of Lot 3 has a width of approximately 12 feet.
4	General Building	Building Placement - Building Setbacks in MR6 and MR4 Districts	4.4.8.b; 4.2.8.b	(A) In the MR6 District, the primary front setback is a minimum of 2 feet and a maximum of 15 feet. (B) In the MR6 District, the secondary front setback is a minimum of 2 feet and a maximum of 15 feet. (C) In the MR4 District, the primary front setback is a minimum of 2 feet and a maximum of 15 feet. (D) In the MR4 District, the secondary front setback is a minimum of 2 feet and a maximum of 15 feet.	1; 2	Waiver from Building Setback requirements.	<b>Building A (Lot 1)</b> Portion of building facing Sewall Street is more than 15 feet from the Sewall Street primary front lot line and the portion of the building located north of the Civic Plaza is more than 15 feet from the Broadway primary front lot line. Portion of building facing the Civic Plaza is more than 15 feet back from the lot line, which is a secondary front lot line. <b>Building B (Lot 2)</b> Portion of building facing Grant Street is more than 15 feet back from the Grant Street primary front lot line. A small portion of the north lot line of Lot 2 faces Sewall Park, a civic space, and therefore qualifies as a front lot line. The façade is setback 20 feet to comply with the MR4 rear setback requirements that apply elsewhere on this façade.
5	General Building	Ground Story Height	4.4.8.c; 4.2.8.c	The minimum Ground Story Height in the MR6 District is 18 feet and in the MR4 District is 14 feet.	1; 2	Waiver from the Ground Story Height.	Portions of Building A on Lot 1 and Building B on Lot 2 have Ground Story Heights of residential and commercial components within the MR6 District of less than 18 feet. Portions of Building B on Lot 2 have Ground Story Heights of residential components of less than 14 feet.

6	General Building	Massing and Height - Façade Build Out	4.2.8.c; 2.4.4.a.i.a;	(A) Building Facades must be built parallel to the front lot line for the minimum façade build out specified for each building type and is measured as a percentage of the lot width, measured at the maximum front setback line. (B) In the MR4 District, the Minimum Façade Build Out is 80% on the primary front and 65% on the secondary front.	1; 2	Waiver from minimum Façade Build Out and parallel requirements.	<b>Building A (Lot 1)</b> The upper stories of the building façade facing Sewall Street are not parallel to the Sewall Street front lot line. The part of the building facing Sewall Park has a Façade Build Out of 55%, less than the 80% required for Primary Front. <b>Building B (Lot 2)</b> A small portion of the north lot line of Lot 2 faces Sewall Park, a Civic Space, and therefore qualifies as a secondary front lot line. The Façade Build Out on this façade is 27%.
7	General Building	Floor Plate - MR 6 and MR 4 Districts	4.4.8.c; 4.2.8.c	The maximum floor plate of a General Building in the MR6 district is 30,000 sf and the in the MR4 district is 15,000 sf.	1; 2	Waiver from the maximum floor plate requirement.	<b>Building A (Lot 1)</b> Building A has a total floorplate of 28,462 sf with 2,601 sf located within the MR4 District and 25,861 sf located within the MR6 District. <b>Building B (Lot 2)</b> Building B has a total floorplate of 34,213 sf 6,845 sf located within the MR4 District and 27,368 sf located within the MR6 District.
8	General Building	Massing & Height - Step Back Requirements	4.4.8.c	In the MR6 District, step backs of a minimum of 10 feet are required for the 5th and 6th stories.	1; 2	Waiver from Step Back requirements for the 5th and 6th stories.	The setback of Building A and Building B along Broadway occurs at the 6th story and not at the 5th story so the 5th story has a setback of 0 feet. The 6th story has setback of 8 feet. The UDC voted unanimously to support this waiver.
9	General Building	Uses & Features - Façade Composition	4.4.8.d	In the MR6 District, the Primary Façade Ground Story Fenestration requires a minimum of 70%.	1	Waiver from Ground Story Fenestration requirements for fenestration along Broadway and Temple Street.	The Primary Façade Ground Story Fenestration along Broadway is 67.2% and along Temple Street is 37.5%.
10	General Building	Uses & Features - Use & Occupancy	4.2.8.d	The maximum number of Dwelling Units permitted is calculated by dividing the total gross floor area of the building by the density factor. In the MR4 District, a lot with a Lot Area greater than 5,500 sf has a density factor of 1,125.	2	Waiver from density factor for portion of Lot 2 within the MR4 District.	Building B on Lot 2 is located partially within the MR6 District (151,801 gross square area) and partially within the MR4 District (24,628 gross floor area). Using a density factor of 1,125 allows for 22 units within the MR4 District. Building A contains more than 22 units within the MR4 District. Using a density factor of 850 allows for 179 units within the MR6 District. Lot 2 contains 173 total units, which is less than the 201 total units (22 units in MR4 plus 179 units in MR6) that would otherwise be permitted.
11	General Building	Uses & Features - Ground Story Occupancy	4.4.8.d	Ground Story Entrance Spacing shall not exceed 30 feet.	1; 2	Waiver from Ground Story Entrance Spacing requirements.	Portions of Building A on Lot 1 and Building B on Lot 2 along Broadway will have entrances spaced greater than 30 feet apart.

12	Affordable Dwelling Units	General Building - MR 6 and MR 4 Districts	4.4.8.e; Table 4.4.8.a; 4.2.8.e; Table 4.2.8.a; Section 12.1	Buildings with 4 or more units require that 20% of the units be Affordable Dwelling Units. Affordable Housing is to be provided in the tiers and subject to the requirements set forth in Section 12.1.	1; 2	Waiver from compliance with affordability provisions and tiers set forth in the Zoning Ordinance.	100% of the units within Building A on Lot 1 will be affordable units with 16 units affordable to households with total household income, adjusted for household size, at up to 30% of area median income and 99 units available to households with total household income, adjusted for household size, at up to 60% area median income. 17 of the units within Building B on Lot 2 will be affordable to households with total household income, adjusted for household size, at up to 80% of area median income. Specific rental, tenancy and development standards for the affordable units shall be in accordance with the requirements of MGL c. 40B and DHCD.
13	On-Street Parking	Commercial Services/ Food & Beverage Service/ Retail Uses	4.4.16; Table 4.4.16; 4.2.15; Table 4.2.15	Specifies vehicular parking requirements for various commercial, retail, and food and beverage uses.	1; 2	Waiver from this requirement for Lot 1 and Lot 2.	No on-site parking is being provided as part of the Project.
14	MR6 District	Architectural Design Guidelines	4.4.13.e	The facade of buildings with five (5) or more stories should be visually divided into, at least, a horizontal tripartite division (a base, middle, and top). The horizontal divisions may not shift up or down across the width of the facade.	1; 2	Waiver from the architectural design guideline to allow horizontal divisions to shift up and down across the width of the facades.	Horizontal divisions shift up and down across the width for Building A on Lot 1 and Building B on Lot 2. The UDC voted unanimously to support this waiver.
15	Arts & Creative Enterprise Uses	General Building - MR 6 District	4.4.14.c	A minimum of 5% of the gross leasable commercial floor area in any Building in the MR6 district must be provided as Leasable Floor Area for Arts & Creative Enterprise Uses.	1; 2	Waiver from this requirement for Lot 2.	The Project as a whole will meet this requirement with 5% of the gross leasable commercial floor area in Building A and Building B will be provided in one aggregated area in Building A on Lot 1.
16	Public Realm	Curb Cuts	4.4.17.b; 11.2.2	A Curb Cut requires a permit from the City Engineer. Curb Cuts are prohibited along all Thoroughfares designated as a Pedestrian Street. Vehicular entrances to Parking Lots are prohibited along any Thoroughfare designated as a Pedestrian Street.	1; 2; 3	Waiver from the need to obtain a Curb Cut Permit from the City Engineer and waiver from prohibition on curb cuts on Pedestrian Streets.	Curb cuts are provided on Broadway to access a loading area for Building 2 and curb cuts are provided on Broadway and Temple Street to the parking lot on Lot 3 serving the adjacent property uses and to provide access and loading for Lot 2.
17	Development Standards	Land Platting - Lots; Through Lots	10.1.4.b	Through lots are prohibited in the Neighborhood Residence District.	1	Waiver from the Through Lot prohibition for Lot 1.	Lot 1 is a Through Lots as it fronts on two (2) or more thoroughfares that do not intersect at the boundaries of the lot. A portion of Lot 1, containing the Sewall Street pocket park, is within the Neighborhood Residence District.
18	Development Standards	Land Platting - Lots; Lot Shape	10.1.4.c	Lots must be platted to be generally rectilinear.	1; 2; 3	Waiver from Lot shape requirement.	Lots 1, 2 and 3 are not rectilinear due to the land that is part of the development.



19	Development Standards	Fences & Walls - Retaining Walls	10.5.2	Retaining Walls located in the Frontage Area may be up to 4 feet in height and successive walls must be built with a minimum horizontal separation distance of four (4) feet.	1; 2; 3; 4	Waiver from the retaining wall height and separation requirements.	The property has significant topographical changes and has frontage zones on multiple sides on multiple streets. Some topographical changes are managed through landscaping which may require higher retaining walls within less separation.
20	Development Standards	Screening - Loading Areas	10.7.2	Outdoor loading facilities, including all docks and areas used for the storage and staging of materials must be screened from view by a wall or fully closed fence between 6 and 12 feet in height, as necessary to sufficiently screen delivery vehicles, and constructed of materials that are compatible with the principal building in terms of texture, quality, and color. Exterior entrances and access to loading facilities that are fully enclosed within a building must have an opaque, self closing door constructed of materials that are compatible with the principal building in terms of texture, quality, and color. Loading facility doors are only permitted to be opened during loading and unloading activities.	2	Waiver from screening requirements for loading areas.	The loading area of Building B on Lot 2 is exposed towards Broadway and a gate or fence would be unsightly when not in use and present an operational challenge.
21	Development Standards	Screening - Service Areas	10.7.3	Exterior entrances and Access to service areas that are fully enclosed within a Building must have an opaque, self-closing door constructed of materials that are compatible with the Principal Building in terms of texture, quality and color.	1; 2	Waiver from this screening requirement for service areas.	The service area of Building B on Lot 2 is exposed towards Broadway and a gate or fence would be unsightly when not in use and present an operational challenge.
22	Development Standards	Screening - Wall Mounted Mechanical Equipment	10.7.4.a	Wall mounted mechanical equipment is not permitted on any Façade. Wall mounted mechanical equipment on any surface that is visible from a public Thoroughfare (excluding an Alley) or Civic Space must be screened by landscaping or an opaque screen constructed of materials that are compatible with the Principal Building in terms of texture, quality, and color.	1; 2	Waiver from wall mounted mechanical equipment requirements.	The details of building design have not been finalized but given that neither Building A on Lot 1 or Building B on Lot 2 has a basement area to locate mechanical equipment and some mechanical equipment may be mounted on walls that cannot meet the screening requirements.
23	Development Standards	Screening - Mechanical Equipment	10.7.4.b	Ground mounted mechanical equipment that is visible from a public Thoroughfare (excluding an Alley) or Civic Space must be screened by landscaping, a fence or a wall constructed of materials that are compatible with the Principal Building in terms of texture, quality and color. Screening must be of a height equal to or greater than the height of the mechanical equipment being screened.	1; 2	Waiver from screening requirements for ground-mounted mechanical equipment.	The final design of mechanical equipment, including, without limitation, transformers has not been finalized and there may be insufficient space to screen such equipment from the numerous Thoroughfares and the two new Civic Spaces being constructed as part of the Project.
24	Sustainable Development	Green Buildings	10.10.1	New construction of any principal building type greater than 50,000 square feet in Gross Floor Area must be LEED Platinum certifiable.	1; 2	Waiver from LEED Platinum requirement.	Building A on Lot 1 and Building B on Lot 2 will meet Passive House certifiability, which will achieve many of the same goals as LEED Platinum.

25	Parking & Mobility	Loading Facilities	11.2.5.a	Buildings providing space for uses that regularly receive or distribute large quantities of goods must provide loading facilities as required by the Director of Mobility. Loading facilities must be sufficient to adequately serve the intended use(s).	1; 2	Waiver from need to obtain approvals from Director of Mobility.	Loading facilities for Building A on Lot 1 and Building B on Lot 2 will provide loading facilities as shown on the plans approved by the ZBA.
26	Parking & Mobility	Motor Vehicle Parking - On-Street Parking in Transit Areas	11.2.7; Somerville Traffic Commission Traffic Regulations	Upon adoption of an official policy, prohibits all Dwelling Units, except as set forth in the policy, to participate in the Somerville Residential Permit Parking Program. The Traffic Commission Regulations prohibit the issuance of residential parking permits for new developments on property in Transit Areas. The Director of Parking is authorized to waive the prohibition in certain circumstances, including for residents of deed restricted affordable dwelling units.	2	Waiver to allow up to 50% of the market rate units within Building B on Lot 2 to participate in the Residential Permit Parking Program.	No on-site parking is being provided as part of the Project. The waiver would allow the City to grant up to 78 residential parking permits to residents of the market rate units in Building B on Lot 2.
27	Public Realm	Civic Spaces	13.1.1.a	The Development of any Civic Space requires Site Plan Approval followed by a Civic Space Permit.	1; 2	Waiver from Site Plan Approval for the two proposed Civic Spaces.	The Project Site includes two Civic Spaces. The Site Plan Approval will be granted through the Comprehensive Permit.
28	Public Realm	Civic Spaces - Bicycle Parking	13.1.2.k	Bicycle parking within Civic Spaces must be provided as required by the Director of Public Space & Urban Forestry and is subject to the provisions of §12.1 Bicycle Parking.	1; 2	Bicycle parking within the Pocket Plaza and Pocket Park will be provided as shown on the plans approved by the ZBA.	All Project approvals required will be granted through the comprehensive permit process.
29	Public Realm	Civic Spaces - Pocket Park	13.1.3.a	A minimum of 70% and a maximum of 100% of a Pocket Park shall be Landscaped Area.	1; 2	Waiver from the minimum amount of Landscaped Area for the Pocket Park.	The Pocket Park contains 7,714 sf, of which 2,949 sf is Landscaped Area (as such term is interpreted by the City), which is less than the minimum required Landscaped Area of 70%. The City has requested that the Pocket Park contain play areas for children, given the need for active play spaces in the area and the presence of many 2- and 3-bedroom units in the Project. To support active play and to address durability of materials, portions of the Pocket Park will contain permeable pavers, causing less than 70% of the Pocket Park to be Landscaped Area.
30	Public Works; Division of Highways, Electric Lines and Lights	Municipal Code, Chapter 11, Article III, Division 3, Sec. 11-88		Approval of the location of curb cuts	1; 2; 3; 4	Approval of the general location of curb cuts.	Approval of the general location of curb cuts as part of the Comprehensive Permit. Final review of curb cut locations will be conducted at the building permit application stage.

**Exhibit 2: Approved Documents and Plans**

## Sitewide &amp; Lot-Specific Plans, Drawings, and Documents

<b>Document Name</b>	<b>Sheet Title (Sheet Number, Most Recent Date on Plans)</b>
Comprehensive Permit Application – Site-Wide Documents	<ul style="list-style-type: none"> <li>• Cover Sheet (G000; 11/8/2022)</li> <li>• Drainage &amp; Utility Plan (G003; 11/8/2022)</li> <li>• Existing Tree Plan (L001.A1; 11/8/2022)</li> <li>• Illustrative Site Plan (G001; 1/12/2023)</li> <li>• Phasing Plan (G004; submitted 11/8/2022)</li> <li>• Grading Plan (G004; 11/8/2022)</li> <li>• Overall Lot Split Plan (C-001; 10/19/2022)</li> <li>• Scaled Site Plan (G002; 11/8/2022)</li> <li>• Utility Plan (G003; 11/8/2022)</li> <li>• Lot Split Plan of Land (10/31/2022)</li> <li>• Preliminary Hydrology Analysis (multiple pages; 11/8/2022)</li> </ul>
Comprehensive Permit Application – Building A	<ul style="list-style-type: none"> <li>• Cover Sheet (A000.A1; 1/26/2023)</li> <li>• Dimensional Tables (A000.A3; 11/8/2022)</li> <li>• Gross Floor Area Plans (A000.A4; 11/8/2022)</li> <li>• Façade Analysis (A000.A5; 11/8/2022)</li> <li>• Building A – Level 1 (A001.A1; 1/26/2023)</li> <li>• Building A – Level 2 (A001.A2; 1/26/2023)</li> <li>• Building A – Level 3 (A001.A3; 1/26/2023)</li> <li>• Building A – Level 4 (A001.A4; 1/26/2023)</li> <li>• Building A – Level 5 (A001.A5; 1/26/2023)</li> <li>• Building A – Level 6 (A001.A6; 1/26/2023)</li> <li>• Building A – Roof (A001.A7; 11/8/2022)</li> <li>• Building A – Section 1 (A002.A1; 11/8/2022)</li> <li>• Building A – Section 2 (A002.A2; 11/8/2022)</li> <li>• Building A – Section 3 (A002.A3; 11/8/2022)</li> <li>• Building A – Elevations (A003.A1 to A003.A5; 11/8/2022)</li> <li>• Signage Plans (A004.A1 to A004.A4; 11/8/2022)</li> <li>• Lighting Plan (A005.01 to A005.07; fixture sheet; 11/8/22)</li> <li>• Scaled Site Plan (A000.A2; 11/8/2022)</li> <li>• Existing Tree Plan (L001.A1; 11/8/2022)</li> <li>• Cover Sheet – Lot 01 Building A Landscape (L001.A1, 11/8/2022)</li> <li>• Landscape Plan (L001.A2; 11/8/2022) *updated 1/12/2023.</li> <li>• Courtyard Enlargement (L001.A3; 11/8/2022) *updated 1/12/2023</li> <li>• Existing Tree Plan (L001.A1; 11/8/2022)</li> <li>• Site Plan (L001.A2; 11/8/2022)</li> <li>• Courtyard Enlargement Plan (L001.A3; 11/8/2022)</li> <li>• Site Planting Plan (L001.A4; 11/8/2022)</li> <li>• Courtyard Planting Plan (L001.A5; 11/8/2022)</li> <li>• Planting Details (L400.L1; 11/8/2022)</li> <li>• Planting Details (L401.L1 to L401.L2; 11/8/2022)</li> <li>• Grading Plan (G004A; 11/8/2022)</li> </ul>

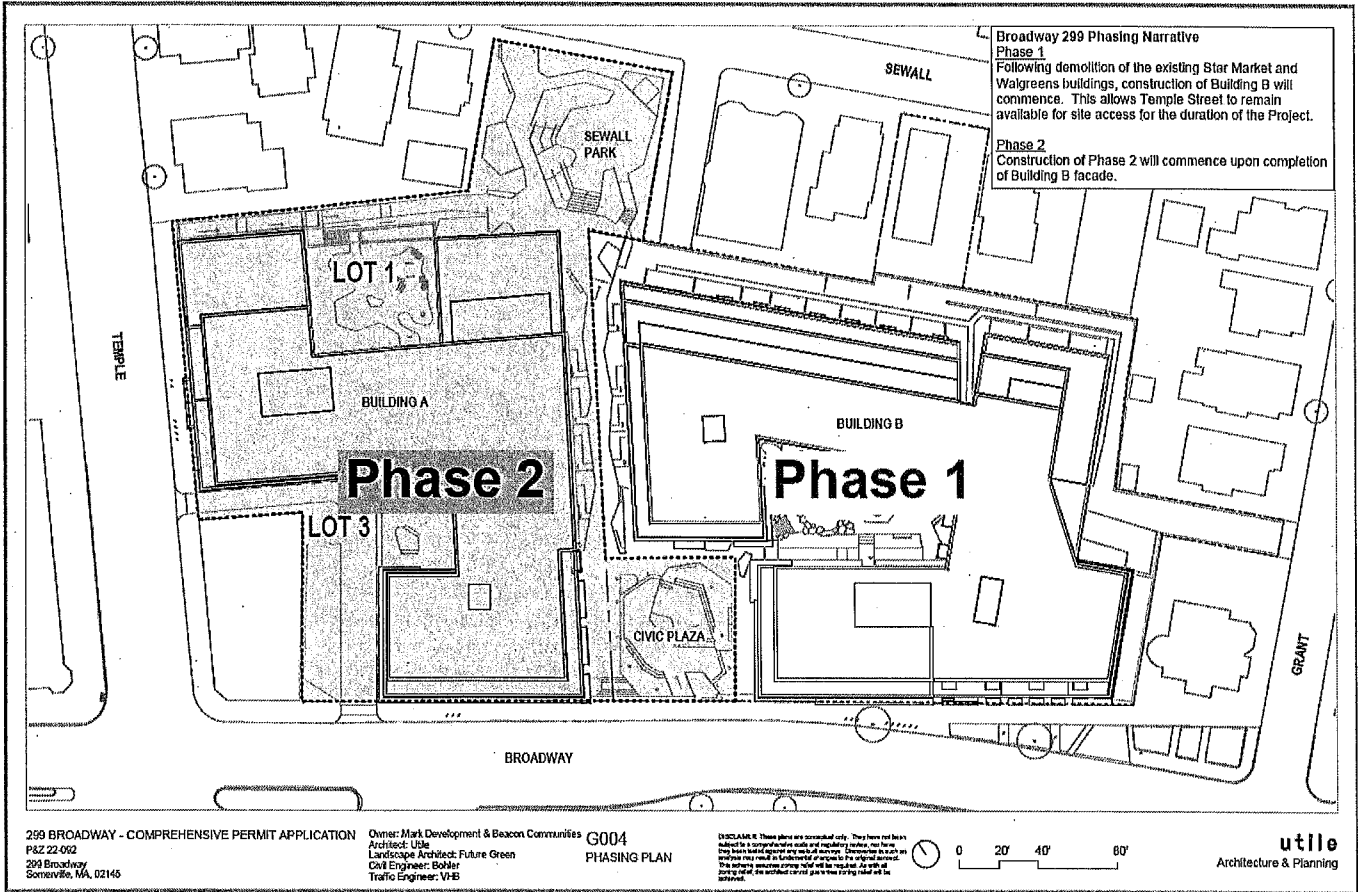
Comprehensive Permit Application – Sewall Street Park	<ul style="list-style-type: none"> <li>• Cover Sheet (L000.L1; 1/12/2023)</li> <li>• Illustrative Plan (L050.L1; 11/8/2022*) *updated 1/12/2023</li> <li>• Scaled Layout Plan (L.101.L1; 11/8/2022*) *updated 1/12/2023</li> <li>• Paving Plan (L.102.L2; 11/8/2022*) *updated 1/12/2023</li> <li>• Planting Plan (L.103.L3; 11/8/2022*) *updated 1/12/2023</li> <li>• Tree Soils Plan (L.104.L4; 11/8/2022*) *updated 1/12/2023</li> <li>• Site Diagram (L.105.L5; 11/8/2022*) *updated 1/12/2023</li> <li>• Signage Plan (L106.L6; 11/8/2022*) *updated 1/12/2023</li> <li>• Landscape Details (L400.L1 to L403.L1; 11/8/2022*) *updated 1/12/2023</li> <li>• Grading Plan (G004D; 11/8/2022*) *updated 1/12/2023</li> <li>• Existing Tree Plan (L001.A1; 11/8/2022)</li> <li>• Drainage &amp; Utility Plan (G003; 11/8/2022)</li> <li>• Lighting Plan (A005.01 to A005.07; fixture sheet; date 11/8/22)</li> </ul>
Comprehensive Permit Application – Building B	<ul style="list-style-type: none"> <li>• Cover Sheet (A000.B1; 11/8/2022)</li> <li>• Dimensional Tables (A000.B3; 11/8/2022)</li> <li>• Gross Floor Area Plans (A000.B4; 11/8/2022)</li> <li>• Façade Analysis (A000.B5; 11/8/2022)</li> <li>• Building B – Level 1 (A001.B1; 11/8/2022)</li> <li>• Building B – Level 2 (A001.B2; 11/8/2022)</li> <li>• Building B – Level 3 (A001.B3; 11/8/2022)</li> <li>• Building B – Level 4 (A001.B4; 11/8/2022)</li> <li>• Building B – Level 5 (A001.B5; 11/8/2022)</li> <li>• Building B – Level 6 (A001.B6; 11/8/2022)</li> <li>• Building B – Roof (A001.B7; 11/8/2022)</li> <li>• Building B – Section 1 (A002.B1; 11/8/2022)</li> <li>• Building B – Section 2 (A002.B2; 11/8/2022)</li> <li>• Building B – Section 3 (A002.B3; 11/8/2022)</li> <li>• Building B – Elevations (A003.B1 to A003.B7; 11/8/2022)</li> <li>• Signage Plans (A004.B1 to A004.B4; 11/8/2022)</li> <li>• Lighting Plan (A005.01 to A005.07; fixture sheet; 11/8/22)</li> <li>• Scaled Site Plan (A000.B2; 11/8/2022)</li> <li>• Cover Sheet – Lot 02 Building B Landscape (L001.B1, 11/8/2022)</li> <li>• Existing Tree Plan (L001.A1; 11/8/2022)</li> <li>• Site Plan (L.001.B2; 11/8/2022) *updated 1/12/2023</li> <li>• Courtyard Enlargement (L.001.B4; 11/8/2022) *updated 1/12/2023</li> <li>• Site Planting Plan (L.001.B3; 11/8/2022)</li> <li>• Courtyard Planting Plan (L.001.B5; 11/8/2022)</li> <li>• Landscape Details (L400.L1; 11/8/2022)</li> <li>• Landscape Details (L401.L1 to L401.L2; 11/8/2022)</li> <li>• Grading Plan (G004B; 11/8/2022)</li> </ul>
Comprehensive Permit Application – Civic Plaza	<ul style="list-style-type: none"> <li>• Cover Sheet (L000.L1; 1/12/2023)</li> <li>• Illustrative Plan (L050.L1; 11/8/2022*) *updated 1/12/2023</li> <li>• Scaled Layout Plan (L101.L1; 11/8/2022*) *updated 1/12/2023</li> <li>• Paving Plan (L102.L2; 11/8/2022*) *updated 1/12/2023</li> <li>• Planting Plan (L103.L3; 11/8/2022*) *updated 1/12/2023</li> </ul>

	<ul style="list-style-type: none"> <li>• Soils Plan (L104.L4; 11/8/2022*) *updated 1/12/2023</li> <li>• Frontage Diagram (L.105.L5; 11/8/2022*) *updated 1/12/2023</li> <li>• Site Diagram (L.105.L6; 11/8/2022*) *updated 1/12/2023</li> <li>• Signage Plan (L106.L6; 11/8/2022*) *updated 1/12/2023</li> <li>• Landscape Details (L400.L1 to L402.L2; 11/8/2022*) *updated 1/12/2023</li> <li>• Grading Plan (G004C; 11/8/2022*) *updated 1/12/2023</li> <li>• Drainage &amp; Utility Plan (G003; 11/8/2022)</li> <li>• Lighting Plan (A005.01 to A005.07; fixture sheet; 11/8/22)</li> </ul>
Comprehensive Permit Application – Lot 3	<ul style="list-style-type: none"> <li>• Cover Sheet (A000.31; 11/8/2022)</li> <li>• Cover Sheet (A000.C1; 11/8/2022)</li> <li>• Scaled Site Plan (A000.C2; 11/8/2022)</li> <li>• Dimensional Tables (A000.C3; 11/8/2022)</li> </ul>
Comprehensive Permit Application – Lot 4	<ul style="list-style-type: none"> <li>• Cover Sheet (A000.41; 11/8/2022)</li> <li>• Cover Sheet (A000.D1; 11/8/2022)</li> <li>• Scaled Site Plan (A000.D2; 11/8/2022)</li> <li>• Dimensional Table (A000.D3; 11/8/2022)</li> </ul>
Shadow Study	<ul style="list-style-type: none"> <li>• Comprehensive Shadow Study (G006.1 to G006.9; 11/8/2022)</li> </ul>
Green Score Diagram Package	<ul style="list-style-type: none"> <li>• 3 sheets, untitled, submitted 12/13/2022)</li> </ul>

### Other Documents

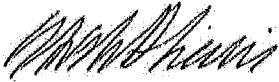
Title	Date
Project Narrative	Submitted 11/8/2022
Project Eligibility Letter	11/7/2022
First Neighborhood Meeting Report	7/21/2022
Second Neighborhood Meeting Report	10/17/2022
Third Neighborhood Meeting Report	10/19/2022
Urban Design Commission Recommendations	10/12/2022, 10/13/2022, 11/3/2022
Letters of Support, City of Somerville to DHCD	Various
Recommendation, Winter Hill Civic Advisory Committee to Somerville Redevelopment Authority	9/8/2022
Somerville Redevelopment Authority – Resolution Regarding the Project at 299 Broadway in the Winter Hill Urban Renewal Plan	9/21/2022
Mobility Package, updated	Submitted 1/12/2023
Transportation Access Plan (TAP)	1/12/2023 (revised)
Mobility Management Plan (MMP)	January 2023 (revised)
Transportation Impact Study (TIS)	January 2023 (revised)
TIS Appendices	Submitted 11/8/2023
OSE Package	Submitted 11/8/2023
Sustainable & Resilient Buildings Questionnaire	11/8/2022
Passive House Approach Narrative	11/1/2022
LEED Scorecard Evaluation and Narrative	11/3/2022
Mobility Management Plan Letter of Approval	1/25/2023

Exhibit 3: Phasing Plan



Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chair*  
Katherine Garavaglia, *Clerk*  
Anne Brockelman  
Ann Fullerton  
Zachary Zaremba



Sarah Lewis  
Sarah Lewis, Director of Planning, Preservation, & Zoning  
Office of Strategic Planning & Community Development

Copies of this decision are filed with the Somerville City Clerk's Office.  
Copies of all plans and documents referred to in this decision and a detailed record of the Zoning Board of Appeals' proceedings are filed with the Somerville Planning, Preservation, & Zoning Division.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

**FOR VARIANCE(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

**FOR SPECIAL PERMIT(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

**FOR SITE PLAN APPROVAL(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_