

APPLICATION FOR COMPREHENSIVE PERMIT

Pursuant to M.G.L. c.40B, §§ 20-23, and 760 CMR 56.00 et seq

PROJECT: AYER COMMONS

**APPLICANT: Neighborhood of Affordable Housing, Inc.
143 Border Street
East Boston, MA 02128**



Date: June 24, 2022

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I. SUMMARY OF THE APPLICANT, PROJECT PROPOSAL, LOCAL NEED AND PERMIT REQUEST

A. Description of Applicant

The Applicant, Neighborhood of Affordable Housing, Inc. (“Applicant” or “NOAH”), is a multi-service Community Development Corporation located in East Boston, MA with approximately 35 years of experience developing affordable housing. NOAH is a Massachusetts non-profit corporation that is qualified to undertake the planning, design, construction, ownership, and operation of the proposed rental housing community to be known as Ayer Commons.

NOAH has either rehabilitated or developed nearly 500 units within 80 buildings in East Boston and throughout Massachusetts. Most recently completed was Coppersmith Village, a 71 unit mixed-income, mixed-use project in East Boston. Pursuant to Chapter 40B specifically, NOAH has permitted the Stevens Corner development consisting of 42 affordable family units in North Andover in 2012; 276 Maynard Road consisting of 6 affordable and market condominium units in Sudbury in 2017; and Benfield Farms consisting of 26 affordable senior housing units in Carlisle in 2014.

B. Existing Conditions and General Project Overview

Existing Conditions

The Project locus is a 10.59 acre parcel of land, known as 65 Fitchburg Road, Ayer (the “Property”). The Property is comprised of four separate parcels, as identified by the Ayers Assessor’s Office as follows:

Parcel No. 019011000000530 (8.49 acres);
Parcel No. 019011000000270 (.13 acres);
Parcel No. 019011000000030 (1.28 acres); and
Parcel No. 019011000000031 (.69 acres).

The southern portion of the Property, which fronts on Fitchburg Road (Route 2A), is currently used as a landscaping lay down yard and welding business. The southern portion contains two one-story commercial structures and shed, associated with the current uses as well as an abandoned one-story house. These existing structures will be removed as part of the Project. The Property is bisected by an intermittent stream/wetland system, and the rear of the Property (i.e., north of the wetland system) remains undeveloped, wooded land, sloping toward the wetland with an average slope of 2-10%.

The Property is bounded by Anderson Funeral Home to the east, a commercial natural gas distribution business to the west, a residential neighborhood to the north, and an industrial/warehouse facility across Fitchburg Road to the south. The Property is 1.1 miles west of the center of Ayer and its MBTA Commuter Rail Station providing service to Boston and Wachusett. The site is also conveniently located within 2/10 mile from Shop and Save and Family Dollar, 3/10 mile from Tiny Restaurant, 8/10 mile from Dunkin Donuts and 1 mile from Billiards Café. Other proximate amenities include two salon/barber shops, a bank, a Catholic

church, a car servicing station, and several other stores.

The Property is within three zoning districts, i.e., General Business district, Residence A-2 district, and to a much lesser extent, a Limited Industry district. The existing uses of the Property occur predominantly within the portion of the site zoned General Business; similarly, the proposed Project is primarily located within the General Business district portion of the Property.

The site has approximately 521 feet of frontage on Fitchburg Road (Route 2A) and currently is served by a single, large curb cut along Fitchburg Road. The Property is currently served by water service from Fitchburg Road, as well as electric service.

Proposed Project.

NOAH proposes to redevelop the Property into an affordable housing development, to be developed in two phases, to be known as Ayer Commons. The total number of units proposed to be developed is 106 rental dwelling units; Phase I would consist of 64 dwelling units and Phase II would involve development of 42 units. The Project will also include accessory parking (surface and covered), a community building, recreational space, landscaping, and project infrastructure and utilities.

Phase I of the Project (64 dwelling units) is proposed to be distributed among six (6) residential buildings: five (5) two-story walk-up buildings with each building developed into eight (8) units; and a three-story elevator building consisting of 24 units. Additionally, Phase I is to include a one-story community building to include amenity spaces such as a leasing office, maintenance office, supply room, mailroom/package delivery room, wellness/fitness center, a community room with kitchen, a computer/work space lab, and public restrooms. The units to be developed in Phase I will consist of 18 one-bedroom units; 38 two-bedroom units; and 8 three-bedroom units. All 64 dwelling units will be designated as affordable units. The first phase will also include 93 spaces of surface parking for the residents.

Phase II of the Project includes a single 42-unit four-story apartment building with a first floor podium level providing 44 covered parking spaces as well as the lobby entrance. Additional surface parking, 20 spaces, will also be constructed during Phase II. The 42 residential units will be located on floors two through four, above the podium parking level. The four-story building will include 12 one-bedroom units; 24 two-bedroom units; and 6 three-bedroom units. Similar to Phase I, all of the units constructed within Phase II will be affordable units.

Water and electric utilities will continue to be provided to the Property from Fitchburg Road. The Project will be served by public sewer, with a new sewer line connecting from an existing sewer main in Isaac's Lane, located to the north of the Property. The proposed sewer line will extend from Isaac's Lane to a pumping station near the southwest portion of the Property and will require a Wetlands Order of Conditions to traverse bordering vegetated wetland ("BVW"), an intermittent stream and associated buffer located in the central portion of the Property.

A summary of Ayer Commons (Phase I and Phase II) is as provided below:

Phase I

Total Proposed Square Feet of Gross Floor Area of Building	Number of Rental Units	Unit Breakdown and Parking Details	HCA Units
72,599 SF	64	18 units - 1 BR: 631 SF (ave) 38 units - 2 BR: 860 SF (ave) 8 units - 3 BR: 1,086 SF (ave) Community Bldg: 2,850 SF 93 Surface Parking Spaces	4 Group Two Units

Phase II

Total Proposed Square Feet of Gross Floor Area of Building	Number of Rental Units	Unit Breakdown and Parking Details	HCA Units
58,221 SF.	42	12 units - 1 BR: 765 SF (ave.) 24 units - 2 BR: 1,008 SF (ave.) 6 units - 3 BR: 1,250 SF (ave.) 44 Podium Parking Spaces 20 Surface Parking Spaces	4 Group Two Units

The Project is to be constructed in accordance with a set of preliminary plans, consisting of 11 sheets, entitled, “Ayer Commons, 65 Fitchburg Road, Ayer, MA” dated June 14, 2022, prepared by BSC Group (the “Civil Plans” or the “Site Plans”). The Civil Plans are attached hereto in Section 4.A.

The landscaping, lighting, design, layout and elevations for Ayer Commons shown on a set of plans, consisting of twelve (12) sheets entitled “ZBA Submission, Ayer Commons”, dated June 17, 2022 prepared by Dimella Shaffer Associates, Inc. (the “Architectural Plans”). The Architectural Plans are attached hereto in **Section IV.B.**

All of the proposed Project residential units are eligible for listing on the Town of Ayer’s Subsidized Housing Inventory (SHI) as the units are being leased to Income Eligible Households

earning no more than 80% of Area Median Income for the Boston-Cambridge-Quincy, MA HUD Metro Fair Market Rents (FMR) area, as determined by DHCD. This percentage of SHI Eligible Housing in the Project is well in excess of the 20-25% required under Chapter 40B. Affordability will be preserved for the maximum period permitted by law through a Use Restriction. At the Board's option, a total of up to 70% of the Low or Moderate Income housing units, or the maximum number of units allowed by law, may be targeted for initial lease up under local preference in accordance with an Affirmative Fair Marketing Plan conforming to the 40B Regulations, subject to approval by DHCD.

C. Local Need

According to the latest published Massachusetts DHCD Subsidized Housing Inventory ("SHI"), dated as of December 21, 2020, the Town of Ayer's subsidized housing inventory includes 254 Low or Moderate Income Housing units, which constitutes 7.4% of Ayer's total housing stock, and below the 10% threshold established by Chapter 40B and 760 CMR 56.03(3)(a). Similarly, as noted within the Town of Ayer's Housing Production Plan, the amount of affordable housing stock in Ayer has declined from the 2017 SHI inventory, from 8.69% affordable housing to 7.4%, as reported in the published December 2020 SHI. The Town of Ayer Housing Production Plan at page 22 further notes that Ayer is expected to lose another 51 units of affordable housing over the next 5 years due to expiring affordability restrictions.

The Ayer Master Plan (2017 Update) on page 33 likewise underscores the need for rental housing in Ayer, noting the decline in available rental housing over the past 15 years. As stated in the Master Plan: "The loss of rental housing in Ayer is concerning because it means that the housing stock is becoming less diverse. Rental homes fulfill the needs of many types of households. For some, especially low- and moderate- income households in high- cost markets or those who have recently lost a home to foreclosure or divorce, rental homes are the most financially realistic option. Other people rent to reduce maintenance costs and responsibilities or because they expect to move frequently. For others, affordable rental housing is an important stepping stone that allows them to accumulate savings and prepare for homeownership."

The proposed Project fulfills a number of important objectives to advance affordable housing goals in Ayer as follow:

- By developing high quality, sustainable buildings that will provide a healthy and cost efficient environment for residents and in close proximity to public transportation;
- By developing a building and layout design that will work in scale and character within the character of the neighborhood, integrating a residential feel to blend into the residential neighborhood to the north;
- By developing new, rental options for the community, thereby fulfilling an important housing type that has declined in numbers in the Town; and
- By providing an additional 106 units of SHI eligible housing to allow the Town to meet and exceed the 10% affordable housing stock and thereby giving the Town the ability to determine future affordable housing projects, whether under Chapter 40B or other proposals.

D. Proposed Findings of Fact

The Applicant respectfully requests the Zoning Board of Appeals to make the following proposed findings of fact in connection with this Application:

1. The Applicant is eligible to receive a Subsidy from a Subsidizing Agency (Federal Low Income Housing Tax Credit Program administered through the DHCD) after a Comprehensive Permit has been issued and which, unless otherwise governed by a federal act or regulation, complies with the requirements of the Subsidizing Agency (DHCD) relative to a reasonable return for the Project. The Applicant intends to assign the Comprehensive Permit Decision issued to it to a single purpose entity in order to facilitate the Applicant's receipt of Project funding, including but not limited to, Federal Low Income Housing Tax Credit funding;
2. The Project is fundable by a Subsidizing Agency within the meaning of Section 56.04(1)(b) of the Chapter 40B Regulations since the Subsidizing Agency, DHCD, issued a written Determination of Project Eligibility under a Low or Moderate Income Housing subsidy program;
3. The DHCD will be the Subsidizing Agency within the meaning of Section 56.02 of the Chapter 40B Regulations (760 CMR §56.02);
4. The Applicant controls the site, as evidenced by the Purchase and Sale Agreement, as extended attached hereto, sufficient to qualify it as a recipient of a Comprehensive Permit for this Project as required under Section 56.04(1)(c) of the Chapter 40B Regulations; and,
5. The Project as proposed in the Application and other supporting documentation is "Consistent With Local Needs" within the meaning of Massachusetts General Laws, Chapter 40B, Section 20, and Section 56.02 of the Chapter 40B Regulations (760 CMR §56.02).

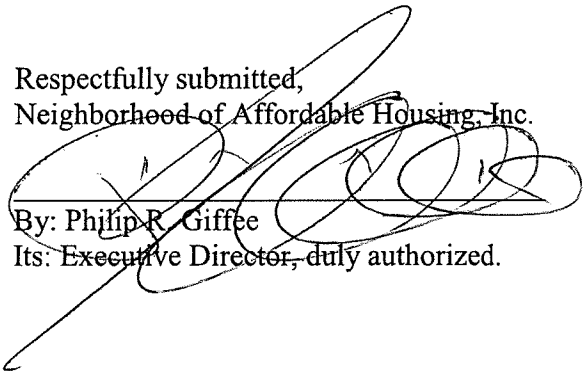
E. Request for Comprehensive Permit

The Applicant, the Property and the Project are more particularly described in the plans, drawings and other exhibits included with this Application, and also submitted under separate cover with this Application, and which may be supplemented by the Applicant during the hearing process, all of which are incorporated herein by reference and constitute the documents required to be submitted by the 40B Regulations (760 CMR § 56.05), as well as the requirements of the Town of Ayer Zoning Board of Appeals.

For the reasons presented in this Application, and the additional reasons that the Applicant will present at the scheduled public hearing on the Application, the Applicant respectfully requests that the Zoning Board of Appeals, after complying with the procedures as required by law, including G.L. c.40B, §§20-23, and 760 CMR 56.00 et seq. vote to make the Findings of Fact set

forth in Section 1.D above, and issue a Comprehensive Permit to the Applicant for the proposed Project.

Respectfully submitted,
Neighborhood of Affordable Housing, Inc.



By: Philip R. Giffey
Its: Executive Director, duly authorized.

II. JURISDICTIONAL REQUIREMENTS

A. The Applicant

NOAH is an award-winning multi-service non-profit community development corporation (“CDC”). NOAH was originally organized as a 501(c)(3) organization over three decades ago, in 1987. With respect to the Project proposed herein, NOAH agrees to abide by the terms and conditions imposed upon it under M.G.L. c.40B, its Regulations and to conform to the requirements of the subsidy, the Low Income Housing Tax Credit Program as administered by the DHCD. In that regard, NOAH will enter into a Regulatory Agreement with DHCD, which will be finalized, signed and resubmitted to the Board of Appeals as part of Final Approval after the issuance of a Comprehensive Permit, but prior to the commencement of construction, as required by Section 56.04(7) of the 40B Regulations.

B. Site Control

The Applicant’s control of the Properties within the meaning of 760 CMR 56.04(1)(c) of the 40B Regulations, is evidenced by the DHCD’s issuance of a written determination of Project Eligibility, and is further evidenced by the Purchase and Sale Agreement for the property, a redacted version of which is attached hereto in **Section IV.E**.

C. Project Eligibility

As evidenced by the written determination of Project Eligibility issued by the DHCD, pursuant to 760 CMR § 56.04(7), the Project is presumed fundable under the Federal Low Income Housing Tax Credit Program administered through the DHCD. A copy of the DHCD Project Eligibility Letter is to be attached in **Section IV.F** herein.

III. SITE CONDITIONS REPORT

As required under Section 56.05(4)(2)(b) of the 40B Regulations, the following is a report on existing site and neighborhood conditions for the Board's consideration in addition to the Existing Conditions sheets of the Civil Plans attached as **Section IV.A.**

A. Access and Site Location

The Property is located at 65 Fitchburg Road, Ayer, Massachusetts. Ayer is located in Middlesex County in the Nashoba Valley area and is approximately 35 miles northwest of Boston within easy access of both Interstate 495 and Route 2. Ayer is bordered by Groton to the north, Harvard to the south, Littleton to the east and Shirley to the west. A portion of Ayer was home to the former Fort Devens military base.

The Property fronts upon Fitchburg Road/Route 2A and is currently developed with an abandoned residential structure, two one-story commercial buildings and adjacent shed. As stated previously, to the east of the Property is a funeral home, to the west is a natural gas distributor and to the north is a residential neighborhood. The majority of the southern portion of the site, in the vicinity of the proposed Project, presently is used for landscaping and tree service businesses. Portions of the developed portions of the site are covered with bituminous concrete pavement and other areas are earthen covered with stockpiles of logs and landscaping materials. The northern portion of the Property, beyond the limits of the proposed Project, are wooded. The Property is 1.1 miles west of the Ayer MBTA Commuter Rail and the center Ayer, providing access to retail amenities, services, shopping and restaurants concentrated along Main Street. In addition, the Property is within convenient walking distance to a grocery store, Dollar General and restaurants along Fitchburg Road.

As the existing site is located directly off Fitchburg Road, it is served by a single large curb cut with water and electric service provided to the site. The proposed Project will eliminate the large curb cut and reduce the driveway width to 24 feet, which will safely accommodating passenger cars and Town of Ayer emergency vehicles.

B. Topographical Features

The 10.59 acres site is comprised of both undeveloped and developed portions as well as uplands, as bisected by a wetland system. The southern portion of the site is currently developed and is gently sloped between 0%-3%. This section of the site consists mainly of large gravel and broken pavement along with the bordering wooded area. The northern portion is undeveloped, wooded land, sloping toward the wetlands with an average slope between 2%-10%.

C. Wetland Features/Estimated Habitat

Based upon a review of the Property and other records, wetland resources defined under the Wetlands Protection Act and its regulations, 310 CMR 10.00 and the local wetland regulations, have been identified at the Property. The Property is bisected by a wetlands system, which

includes a 100' buffer zone. In addition to identifying the 100' buffer zone (otherwise referenced as Adjacent Upland Resource Area) as a resource area, the Town of Ayer also regulates the 50' inner buffer zone.

Included in this wetland system is an intermittent stream. The intermittent stream also includes a 100' buffer zone under the local regulations, however, this intermittent stream is entirely within the flagged BVW area, whose associated buffer is greater than the intermittent stream buffer zone.

The land north of the wetland system is currently undeveloped land within the Property. Proposed development associated with the Project will redevelop the southern portion of the site. The existing site drains to the wetlands system that bisects the property. Currently, stormwater does not pass through any treatment prior to reaching the wetland area. With the condition of the existing property, the addition of stormwater treatment in the developed condition will greatly improve the runoff characteristics to this wetland system.

As part of the Project, work will be proposed within the wetland buffer area and BVW to allow for an underground sewer line to access the Town of Ayer sewer system in the north section of the Property. Proposed sewer connections are identified in the plans provided herein at **Section IV.A**. In addition to the sewer line, portion of the Project's parking and drive system are within the buffer zone, including 1,975 SF of impervious surface in the inner buffer zone. An Order of Conditions under the Wetlands Protection Act will be required to issue for the Project by the Ayer Conservation Commission or Department of Environmental Protection.

A portion of the site is located in a Natural Heritage & Endangered Species Program (NHESP) Priority Habitat (PH 2024) and touches Estimated Habitat (EH 1342). On August 7, 2020, NHESP responded to a Request for Information (NHESP Tracking No. 20-39534) from BSC Group indicating Priority and Estimated Habitat for the Climbing Fern (*Lygodium palmatum*) and Blanding's turtle (*Emydoidea blandingii*) exist on the site.

Based on feedback from NHESP, the Project will include sensitive resource area buffer zones around the Climbing Fern of 75 feet. Additional protections such as a wetland crossing for the Blanding's Turtles will only be required should there be the need for an extension of the road from Isaac's Lane to the Project.

D. Parking

The main access to the Property is Fitchburg Road. The existing curb cut on Fitchburg Road is rather large and will be reconfigured to a width of 24 feet, suitable to accommodate residential vehicular traffic as well as first responders and/or delivery vehicles. In total, the Project provides for the provision of 157 parking spaces. As part of the first phase, 93 surface parking spaces will be located behind the five front buildings and to the sides and rear of the three-story building. As part of the second phase, 20 additional surface parking spaces will be located to the side and rear of the four-story apartment building. The Phase II building itself will also include 44 covered parking spaces at the first floor podium level. The parking ratio will be 1.48 spaces/unit. The Applicant has commissioned a traffic study within which additional information regarding parking, circulation and traffic will more fully be set forth.

E. Approach to Site and Building Design

Architecture Design and Character

The front view of the Project facing Fitchburg Road will be composed of five (5) two-story buildings and one (1) central three-story building together with a one-story community building, offering amenity spaces for the community. In total, Phase I will consist of 64 units spread among the six residential buildings, inclusive of a mix of one-, two- and three- bedroom units. The Project's architects evaluated a number of massing studies to achieve the preferred placement of the buildings in relation to site context, solar orientation, views, and creation of a community within the site.

While the design of Phase II is a single building development consisting of four stories and housing 42 units, it has been designed to be stylistically similar to Phase I. The Phase II building includes first floor podium parking (4 parking spaces), with the 42 units to be on the upper three floors.

Building Concept

As stated, Phase I will exist on the front edge of the development facing Fitchburg Road and will include the five (5) two-story residential buildings creating a typical residential front to define the "street wall" as a residential development, similar in context to other residential streets in Ayer. Behind the five front buildings, Phase I will also include a three-story central residential building and community building. The architectural design of the buildings will employ use of pitched roofs at the best angle to take advantage of southern orientation for placement of solar panels. The buildings' facades have been designed to maintain a warm and inviting residential aesthetic, using wood textures and a variety of cement panels, both vertical and horizontal. The buildings' design also incorporates balconies to enhance the residential feel and to allow residents to enjoy views and natural sunlight.

Phase 2 will consist of a single building development, similar stylistically to Phase 1, but four stories, 3 over 1 construction. The building mass is broken up into two wings as if creating two

buildings to reduce the overall scale. The elevator lobby and floor amenities such as lounges will be centrally located with large panes of glass to bring natural light and views into the building and further break the mass of the two wings. Each of the “wings” mass and facades are further articulated and the façade materials will be similar in aesthetic to Phase I to maintain a warm and elegant residential aesthetic, using wood textures and a variety of cement panels, both horizontal and vertical.

The units will have open-concept kitchens and will be furnished with stainless steel appliances, granite countertops, a dishwasher, and central air conditioning. All units will be pre-wired for telephone and cable television hookups. At a minimum, the 3-BR units and all handicap accessible units will have washer/dryer hookups. Some units will include balconies, walk-in closets, and islands or breakfast bars. Bathrooms will include a vanity, vinyl or tile flooring, and fiberglass tub surrounds. All units will contain luxury vinyl plank flooring in the living and bedroom areas. The development will be pet-friendly with breed and size restrictions and an additional monthly fee, which is to be determined. A playground and dog run are also planned.

Landscape Design

The existing site is a mix of developed land and undeveloped, forested areas. The redevelopment of the site will soften the overall look and feel of the Property, from its prior industrial feel to a thoughtfully landscaped residential community. Each of the residential buildings along Fitchburg Road will include a lawn and landscaped front yard to enhance the feel and curb appeal of the area.

The landscaping approach will include a variety of formal plantings around the perimeter of each of the Project’s residential buildings and lawn areas along the buildings fronting on Fitchburg Road together with perimeter plantings and lawn around the community building and residential buildings behind the front buildings. In addition to lawn areas, the plantings include a mix of perennials, shrubbery and 136 trees. The Landscape Plan for the Property is included at Sheet L300 in the Architectural Plans attached hereto at **Section IV.B.**

Lighting

Site lighting will be designed to provide a safe and pleasant pedestrian and vehicular circulation throughout the site, while minimizing floor or spillage of lights off-site.

Site lighting is intended to be provided by a mix of building mounted lighting, pole lighting and attractive illuminated bollards. Lighting elements will be dark sky approved to minimize light pollution and impacts to adjacent properties, as well as the community’s residents. Lighting will be used to provide enhanced visibility for security reasons along the driveway, surface parking areas, and building entry points. As the exterior lighting design is further developed, a photometric diagram with the exterior lighting layout can be provided if requested by the Board. The proposed lighting for the Project is included within the Architectural Plans, Sheet L200, attached hereto at **Section IV.B.**

Stormwater Management

As part of the Project design, NOAH's engineers at BSC Group have designed a stormwater management system to meet the provisions of the Department of Environmental Protection ("DEP") Stormwater Management Standards for a new development project. These standards include control of peak runoff, infiltration through underground chambers, and water quality units that clean the runoff prior to infiltration. As detailed within the BSC Group's Stormwater Report, dated June 14, 2022, attached hereto in **Section IV.J**, stormwater from the Project has been designed to be captured and routed to three infiltration systems to attenuate peak runoff rates, provide treatment of stormwater prior to discharge and to infiltrate back to groundwater. The Stormwater Report prepared by the BSC Group includes the proposed Long Term Pollution Prevention Plan and Operation and Maintenance Plan, and is incorporated hereby by reference.

Stormwater management improvements for the Property are largely depicted on the Site Plans attached hereto in **Section IV.A**.

IV. NARRATIVES AND EXHIBITS

A. Preliminary Site Civil Plans

As required under Section 56.05(2)(a) and (2)(f) of the 40B Regulations, attached are preliminary site development plans showing the locations and outlines of proposed buildings; the lot division; the proposed locations, general dimensions and materials for drives, parking areas, walks and paved areas, and proposed landscaping, prepared by a registered architect or engineer.

B. Preliminary Architectural Plans and Elevations

As required under Section 56.05(2)(c) of the Chapter 40B Regulations, attached are preliminary, scaled, architectural drawings. The drawings for the Building have been prepared by a registered architect and include typical floor plans, typical elevations, and sections, and identify construction type and exterior finishes as required under the Chapter 40B Regulations.

C. Tabulation Data

As required under Section 56.05(2)(d) of the Chapter 40B Regulations, below is a tabulation of the proposed buildings, including type, size (number of bedrooms, floor area) and ground coverage, and a summary showing the percentage of each tract to be occupied by buildings, by parking and other paved vehicular areas, and by open areas.

Phase I

Address	Lot Size (Property)	Total Proposed Square Feet of Gross Floor Area of Building	Number of Rental Units	Unit Breakdown and Parking Details	HCA Units
65 Fitchburg	Phase I area = 150,132 SF (3.45 acres) together with 4,585 SF associated with sewer line. (Of the total 10.59 acre site, 247,959 SF (5.69 acres) remain undeveloped)	72,599 SF.	64	18 units - 1 BR: 631 SF (ave) 38 units - 2 BR: 860 SF (ave) 8 units - 3 BR: 1,086 SF (ave) Comm. Bldg: 2,580 SF 92 Surface Parking Spaces	4 Group Two Units

Phase II

Address	Lot Size (Property)	Total Proposed Square Feet of Gross Floor Area of Building	Number of Rental Units	Unit Breakdown and Parking Details	HCA Units
65 Fitchburg Rd	Phase II area = 58,424 SF (1.34 acres) Of the total 10.59 acre site, 247,959 SF (5.69 acres) remain undeveloped	58,221 SF.	42	12 units - 1 BR: 765 SF (ave.) 24 units - 2 BR: 1,008 SF (ave.) 6 units - 3 BR: 1,250 SF (ave.) 44 Podium Parking Spaces/ 20 Surface Parking Spaces	4 Group Two Units

D. Applicant Entity Information

Although Section 56.04(6) of the 40B Regulations states that the issuance of a Determination of Project Eligibility shall be considered Board as conclusive evidence that the Project and the Applicant have satisfied the Project Eligibility requirements of 760 CMR 56.04(1), the Applicant has attached information demonstrating its nonprofit corporate status.

NOAH, as the Applicant, is requesting the Board to include as a condition within the Decision, to allow the Applicant to assign all rights under the Comprehensive Permit Decision to a single purpose entity in order to facilitate the Applicant's receipt of Project funding, including but not limited to Low Income Housing Tax Credit funding, which should not be considered a "substantial change" within the meaning of 760 CMR 56.05(12)(b), provided that the Applicant maintains a relationship with the new entity to be formed. It is anticipated that the new entity will be formed prior to submission of financing or transfer of the Property, and prior to closing on any financing and prior to construction. The entity will be compliant as a limited dividend organization as required by 760 CMR 56.04.



The Commonwealth of Massachusetts
Secretary of the Commonwealth
State House, Boston, Massachusetts 02133

William Francis Galvin
Secretary of the
Commonwealth

Date: June 23, 2022

To Whom It May Concern :

I hereby certify that according to the records of this office,

NEIGHBORHOOD OF AFFORDABLE HOUSING, INC.

is a domestic corporation organized on **July 14, 1986**

I further certify that there are no proceedings presently pending under the Massachusetts General Laws Chapter 180 section 26 A, for revocation of the charter of said corporation; that the State Secretary has not received notice of dissolution of the corporation pursuant to Massachusetts General Laws, Chapter 180, Section 11, 11A, or 11B; that said corporation has filed all annual reports, and paid all fees with respect to such reports, and so far as appears of record said corporation has legal existence and is in good standing with this office.



In testimony of which,

I have hereunto affixed the

Great Seal of the Commonwealth

on the date first above written.

William Francis Galvin

Secretary of the Commonwealth

Certificate Number: 22060590730

Verify this Certificate at: <http://corp.sec.state.ma.us/CorpWeb/Certificates/Verify.aspx>

Processed by: smc

E. Evidence of Site Control

Although Section 56.04(6) of the 40B Regulations states that the issuance of a Determination of Project Eligibility shall be considered by the Zoning Board of Appeals as conclusive evidence that the Project and the Applicant have satisfied the Project Eligibility requirements of 760 CMR 56.04(1), NOAH has attached a [redacted] copy of the purchase agreement.

PURCHASE AND SALE AGREEMENT

This ____ day of September, 2020:

1. PARTIES AND MAILING ADDRESSES

Robert J. Donnell, Mark Flagg, and Harvey M. Flagg, Trustees of the First Ayer Realty Trust, w/d/t dated November 25, 1987 and recorded at Middlesex South Registry of Deeds at Book 18718, Page 557, hereinafter called the SELLER, agrees to SELL and Peace Properties, Inc., a Massachusetts non-profit corporation an address of 143 Border Street, East Boston 02128 (for itself, its successors, nominees, and designees) hereinafter called the BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises.

2. DESCRIPTION

Land and the buildings thereon located at 65 FITCHBURG RD AYER, MA 01432. Parcel No. AYER M:011 B:0000 L:0053 (8.49 acres); Parcel No. AYER M:011 B:0000 L:0027 (.13 acres); FITCHBURG RD AYER, MA 01432 Parcel No. AYER M:011 B:0000 L:0030 (1.28 acres); FITCHBURG RD AYER, MA 01432 Parcel No. AYER M:011 B:0000 L:0031 (.69 acres), Massachusetts, more fully described in the following Deeds recorded with the Middlesex South District County Registry of Deeds Book 18718, Page 562, Book 18718, Page 563, Book 18718, Page 564, and Book 51669, Page 422, together with any easements, rights of ways or passageways of record (the "Premises").

3. BUILDING, STRUCTURES

Included in the sale as part of said Premises are the buildings, structures, and improvements now thereon, and the fixtures belonging to the SELLER, and used in connection therewith. Also included in the sale are originals (or copies, if originals are unavailable) of any and all existing title documents, plans, drawings, reports, professional studies, agreements, licenses, permits and approvals, or documentation regarding the historical or prior uses of the Premises in SELLER's possession (collectively, the "Related Property Documents")

4. TITLE DEED

Said Premises are to be conveyed by a good and sufficient quitclaim deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven (7) calendar days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except

- (a) Provisions of existing building and zoning laws;
- (b) Existing rights and obligations in party walls which are not the subject of written agreement;
- (c) Such taxes for the then current tax fiscal year as are not due and payable on the date of delivery of such deed;
- (d) Any liens for municipal betterments assessed after the date of this agreement; and
- (e) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the current

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use of said Premises:

5. PLANS

If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.

6. REGISTERED TITLE

In addition to the foregoing, if the title to said Premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said Premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title.

7. PURCHASE PRICE

The agreed purchase price for said Premises and Related Property Documents is [REDACTED]

[REDACTED]

8. TIME FOR PERFORMANCE;
DELIVERY OF DEED

Such deed is to be delivered at 12:00 p.m. on the 255th day from the date of this executed agreement at the offices of Hackett Feinberg P.C., 155 Federal Street, 9th Floor, Boston, MA 02110, or at another mutually acceptable location in the Boston area, unless otherwise agreed upon in writing (the "Closing Date"). It is agreed that time is of the essence of this agreement. The Buyer shall have the right to extend the Closing Date by exercising up to 3 additional 90-day extensions by providing the Buyer written notice to do so thirty (30) days prior to the Closing Date (as such date may be extended).

[REDACTED]

9. POSSESSION AND
CONDITION

[REDACTED]

10. TITLE

[REDACTED]

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

SELLER:

First Ayer Realty Trust

By: Philip M. Flag Trustee Mark Flag Trustee
Name: Philip M. Flag MARK FLAG
Title: Trustee

Robert D. Howell Trustee
ROBERT HOWELL

BUYER:

Peace Properties, Inc.

By: [Signature]
Name: Philip Giffey
Title: Executive Director, duly authorized

FOURTH AMENDMENT TO PURCHASE AND SALE AGREEMENT

This Fourth Amendment to Agreement (this "Agreement") is made effective as of this 23rd day of May, 2022 by and between Robert J. Donell, Mark Flagg, and Harvey M. Flagg, Trustees of the First Ayer Realty Trust, u/d/t dated November 26, 1987 and recorded at Middlesex South Registry of Deeds in Book 18718, Page 557, as SELLER, and Peace Properties, Inc., a Massachusetts nonprofit corporation (for itself, its successors, nominees, and designees), as BUYER.

Background

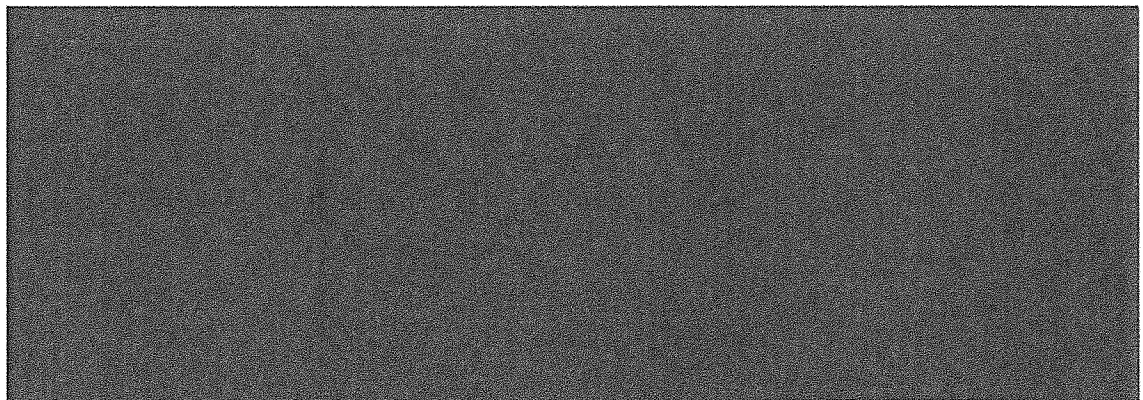
A. Reference is hereby made to that certain Purchase and Sale Agreement dated as of September 14, 2020 between the BUYER and SELLER, as affected by amendments dated November 18, 2020, April 25, 2021, and December 2, 2021 (collectively, the "Agreement"), regarding certain premises located at 65 Fitchburg Road, Ayer, Massachusetts. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

B. The BUYER and SELLER agree to further extend the closing date as set forth in Section 8 of the Purchase and Sale Agreement, and certain other terms, all pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BUYER and SELLER agree as follows:

1. Section 8 of the Agreement is hereby further amended by extending the closing date to March 30, 2023, and Buyer acknowledges that other than the extension to the closing date, all other due diligence, permitting, title objections, mortgage, and any other contingency dates have either expired or been waived.

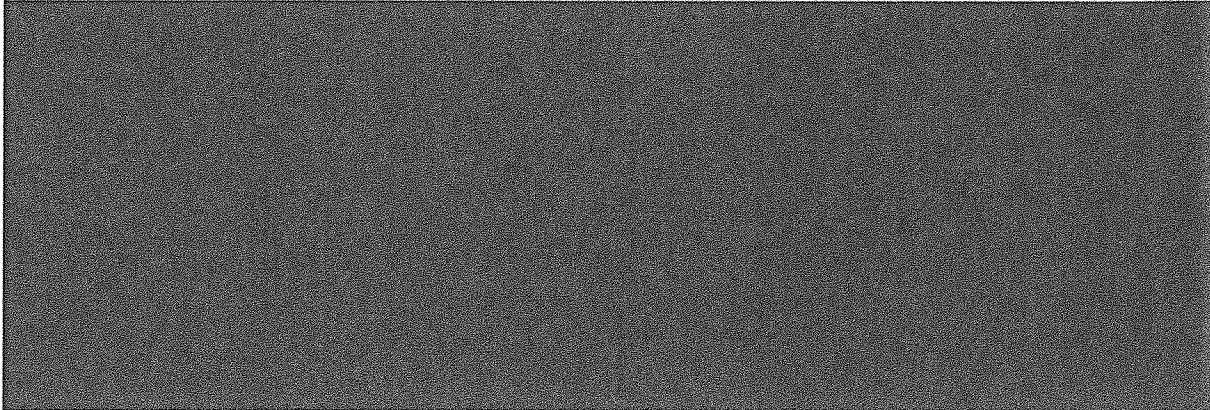
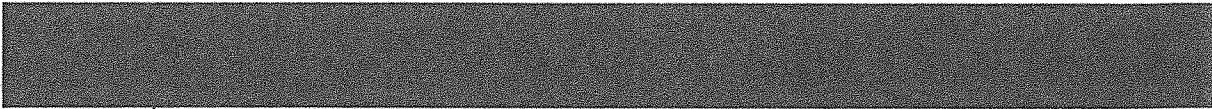
2.



b.



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1/25/23



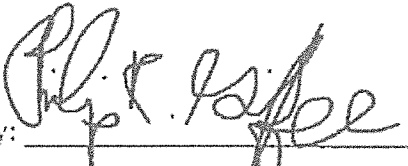
4. In all other respects, the Agreement shall remain unmodified and in full force and effect and shall be deemed a Purchase and Sale Agreement as of the date hereof, as contemplated.

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IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the date first written above.

BUYER:

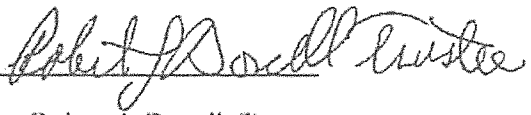
PEACE PROPERTIES, INC.

By: 
Name: Philip Giffie

Title: Executive Director. Duly Authorized

SELLER:

FIRST AYER REALTY TRUST

By: 
Name: Robert J. Donell, Trustee

By: 
Name: Mark Flagg, Trustee

By: 
Name: Harvey M. Flagg, Trustee

BROKER / ESCROW AGENT:

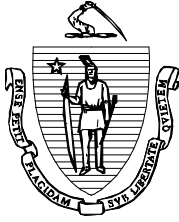
By: _____

Name:

Title:

F. Determination of Project Eligibility

See attached Project Eligibility Letter issued by DHCD, dated November 4, 2021.



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

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

November 4, 2021

Mr. Philip Giffie
Executive Director
NOAH
143 Border Street
East Boston, MA 02128

Re: Ayer Commons, Ayer, MA – Project Eligibility Letter

Dear Mr. Giffie:

We are pleased to inform you that your application for project eligibility determination for the proposed Ayer Commons project located in Ayer, Massachusetts, has been approved under the Low Income Housing Tax Credit (LIHTC) program. The property is located at 65 Fitchburg Road, Ayer, Massachusetts. This approval indicates that the proposed plan is for 106 units of rental housing for families, all of which will be affordable at no more than 60% of area median income. The proposed development will consist of 30 one-bedroom units, 62 two-bedroom units, and 14 three-bedroom units and the rental structure as described in the application is generally consistent with the standards for affordable housing to be included in the community's Chapter 40B affordable housing stock. This approval does not constitute a guarantee that LIHTC funds will be allocated to the Ayer Commons project. It does create a presumption of fundability under 760 CMR 56.04 and allows Neighborhood of Affordable Housing (NOAH) to apply to the Ayer Zoning Board of Appeals for a comprehensive permit. The sponsor should note that a One Stop submission for funding for each phase of this project must conform to all Department of Housing and Community Development (DHCD) program limits and requirements in effect at the time of submission.

As part of the review process, DHCD has made the following findings:

1. The proposed project appears generally eligible under the requirements of the Low Income Housing Tax Credit program.
2. DHCD has performed an on-site inspection of the proposed Ayer Commons project and has determined that the proposed site is an appropriate location for the project. The developer plans to turn a 10.59 acre site of a lumber yard into affordable housing. The site is located on Route 2A and less than a mile from the MBTA commuter rail station and downtown Ayer.
3. The proposed housing design is appropriate for the site. The sponsor will redevelop the former industrial site into housing units in two phases. Phase 1 will put 64 units in five buildings. There will also be a community building. The buildings will be designed with sloped roofs ready for potential solar panel placement. Overall, the design is meant to make the former industrial site residential. Phase 2 will develop a single 4 story building with 42 units. The one building will be split into two wings similar to the design of the first phase.

4. The proposed project appears financially feasible in the context of the Ayer housing market. The proposal includes 18 units for households earning up to 30% of area median income (AMI) and 73 units for households earning up to 60% AMI.
5. The initial proforma for the project appears financially feasible and consistent with the requirements for cost examination and limitations on profits on the basis of estimated development and operating costs. Please note again that a One Stop+ submission for funding for this project must conform to all DHCD program limits and requirements in effect at the time of submission.
6. A third-party appraisal has been engaged. The Low-Income Housing Tax Credit Program Guidelines state that the allowable acquisition value of a site with a comprehensive permit must be equal to or less than the value under pre-existing zoning, plus reasonable carrying costs. If this project applies for funding under the Low-Income Housing Tax Credit Program, the acquisition price in the proposed budget should reflect these program guidelines.
7. The ownership entity will be a single-purpose entity controlled by the applicant subject to limited dividend requirements and meets the general eligibility standards of the Low Income Housing Tax Credit program. The applicant will need to demonstrate sufficient organizational capacity to successfully develop the project under the Low-Income Housing Tax Credit program.
8. The applicant is the designated developer of the site.
9. DHCD received comments from the Town of Ayer regarding the project.

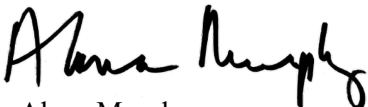
The proposed Ayer Commons project will have to comply with all state and local codes not specifically exempted by a comprehensive permit. In applying for a comprehensive permit, the project sponsor should identify all aspects of the proposal that will not comply with local requirements.

If a comprehensive permit is granted, construction of this project may not commence without DHCD's issuance of final approval pursuant to 760 CMR 56.04 (7) and an award of LIHTC funds. This project eligibility determination letter is not transferable to any other project sponsor or housing program without the express written consent of DHCD. When construction is complete, a Chapter 40B cost certification and an executed and recorded 40B regulatory agreement in compliance with DHCD's requirements pertaining to Chapter 40B must be submitted and approved by DHCD prior to the release of a Low-Income Housing Tax Credit form 8609.

This letter shall expire two years from this date, or on November 4, 2023, unless a comprehensive permit has been issued.

We congratulate you on your efforts to work with the town of Ayer to increase its supply of affordable housing. If you have any questions as you proceed with the project, please feel free to call or email Rebecca Frawley Wachtel at (617) 573-1318 or at Rebecca.Frawley@mass.gov.

Sincerely,



Alana Murphy
Deputy Director

cc: Chairperson Shaun C. Copeland, Ayer Select Board

G. Waivers

As required under Section 56.05(2)(h) of the 40B Regulations, the following is a list of requested Waivers to Local Requirements and Regulations, and the Applicant requests approval of the following Waivers from the Bylaws of the Town of Ayer, as amended, including the Ayer Zoning Bylaw, and other Local Requirements and Regulations as defined under Section 56.02 of the Chapter 40B Regulations, including all local legislative, regulatory, or other actions which are more restrictive than state requirements, if any, including local zoning and wetlands ordinances or by-laws, subdivision and board of health rules, and other local ordinances, codes, and regulations, in each case which are in effect on the date of the Project's application to the Board. In addition to the following list of requested Waivers listed below, the Applicant requests an exception from each and every provision or requirement of all Local Requirements and Regulations issued by a "Local Board" (defined under the Chapter 40B Regulations as meaning any local board or official, including, but not limited to any board of survey; board of health; planning board; conservation commission; historical commission; water, sewer, or other commission or district; fire, police, traffic, or other department; building inspector or similar official or board; city council, as well as all boards, regardless of their geographical jurisdiction or their source of authority [that is, including boards created by special acts of the legislature or by other legislative action] if such local board perform functions usually performed by locally created boards) with which any aspect of its Comprehensive Permit application, including but not limited to its proposed site development plans and any other information hereinafter submitted to the Board, is inconsistent.

See Waiver List addendum attached hereto.

H. Development Team

DEVELOPER (if different from Borrower/Applicant)

Name	Neighborhood of Affordable Housing	
Address	143 Border Street, East Boston, MA	
Contact Person	Annika Lambert	
Telephone/Fax	(617) 418-8262	
E-Mail Address	alambert@noahcdc.org	

DEVELOPMENT CONSULTANT

Name	Sharon Loewenthal	
Address		
Contact Person	Sharon Loewenthal	
Telephone/Fax	(508) 359-6780	
E-Mail Address	sharonloewe1@gmail.com	

ARCHITECT

Name	Dimella Shaffer Associates Inc	
Address	24 Farnsworth St, Boston, MA	
Contact Person	Frank Valdes	
Telephone/Fax	(617) 426-5004	
E-Mail Address	fvaldes@dimellashaffer.com	

ATTORNEY

Name

Smolak and Vaughan, LLP

Address

21 High Street, Suite 301, North Andover, MA 01845

Contact Person

John Smolak/Stephanie Kiefer

Telephone/Fax

(978) 327-5220

Fax (978) 327-5219

E-Mail Address

jsmolak@smolakvaughan.com/skieffer@smolakvaughan.com**MANAGEMENT AGENT**

Name

TBD

Address

Contact Person

Telephone/Fax

E-Mail Address

CIVIL ENGINEER

Name

BSC Group

Address

803 Summer St, Boston, MA

Contact Person

Taylor Dowdy

Telephone/Fax

(617) 896-4300

E-Mail Address

tdowdy@bscgroup.com

I. Consistency With Sustainable Development Principles

- i. Concentrate Development. The Project involves an exciting opportunity for redeveloping underutilized lands, within a mile of transportation services and the downtown center. The Project will make use of existing utilities including water and sewer infrastructure, and better utilize valuable urban land.
- ii. Advance Equity. As a non-profit organization, the Applicant is committed to supportive housing the creation of high-quality affordable housing in locations that are accessible to public transportation, employment centers, and other amenities is an integral part of this mission.
- iii. Make Efficient Decisions. The Project is consistent with municipal plans to increase the affordable housing stock in the Town.
- iv. Protect Land and Ecosystems. The Project is the redevelopment site, which has been designed to minimize impact to wetland resources and to avoid protect plant or turtle species.
- v. Use Natural Resources Wisely. The Project involves new construction on urban infill sites and provides the opportunity to design to a high level of energy and water conservation while utilizing existing infrastructure and land.
- vi. Expand Housing Opportunities. The Project will include a total of 106 non age-restricted units, including a total of 64 units as a part of Phase I and a total of 42 units as a part of Phase II.
- vii. Provide Transportation Choice. The site is within 1.1 miles of the MBTA Ayer Commuter Rail Station which provides commuter rail service to Boston. The site is within one-mile walking distance of the downtown and numerous commercial amenities.
- viii. Increase Job and Business Opportunities. Constructing the Project will create construction jobs through the various trades required. Likewise, the proximity of the Project to downtown Ayer and public transportation creates more options for employment.
- ix. Promote Clean Energy. The Project has an energy efficient building envelope design with efficient building systems such as high efficiency boilers, LED lighting, low-flow water fixtures, front loading washers, and low-VOC paint. The Project is designed to seek Passive House certification.
- x. Plan Regionally. The Project site was chosen due to its proximate location to both downtown Ayer center as well as public transportation and Route 2 for regional access. In pre-application meetings with the Department of Housing and Community Development, the Applicant has received positive feedback as to the consistency of the proposal and the community's and region's needs.

J. Stormwater Report, Ayer Commons, June 14, 2022

See attached Stormwater Report, dated June 14, 2022.