

# Middlesex North Registry of Deeds

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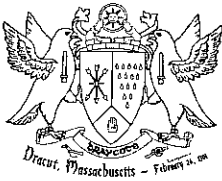
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**Middlesex North Registry of Deeds**  
**Richard P. Howe Jr., Register**  
360 Gorham Street  
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# Town of Dracut Board of Appeals

62 Arlington Street  
Dracut, MA 01826

I, KATHLEEN GRAHAM, CLERK of the TOWN of  
DRACUT, MASS., HEREBY CERTIFY that the NOTICE  
of VARIANCE by the DRACUT BOARD of APPEALS has  
BEEN RECEIVED and RECORDED at this OFFICE and  
NO APPEAL was RECEIVED DURING the TWENTY DAYS  
AFTER SUCH RECEIPT and RECORDING of SAID NOTICE  
11/05/2020  
Date  
Kathleen M. Graham  
Town Clerk, Dracut, Mass.

Tel: (978) 454-0603  
Fax: (978) 937-9885  
email: boardofappeals@dracutma.gov

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

APPLICANT: Common Ground Development Corporation ("Applicant")  
PROPERTY: 144 Greenmont Avenue and 1530 Bridge Street (the  
"Property")  
ASSESSORS' MAP: Map 47, Parcels 115 and 249  
DEVELOPMENT NAME: DRACUT CENTER SENIOR HOUSING  
DATE: September 17, 2020

### I. PROCEDURAL HISTORY

1. An application for a Comprehensive Permit was received by the Town of Dracut Zoning Board of Appeals ("Board") on or about June 11, 2020 ("Application"). The Application proposes the development of sixty (60) rental apartment to qualified applicants aged 62 and older (except as allowed by law, including but not limited to persons with disabilities), in one (1) residential structure with primary access to be located at 144 Greenmont Avenue with limited pedestrian and utility access from Bridge Street ("Project").
2. The Board's public hearing on the Application was duly opened on July 30, 2020, and was continued to August 20, 2020, September 3, 2020 and September 17, 2020. The public hearing was closed on September 17, 2020.
3. The Project is located on the Property, which is owned by the Town of Dracut and is located at 144 Greenmont Avenue and 1530 Bridge Street, Dracut, Massachusetts.
4. The Property is located in the (R1) Residence 1 Zoning District with a small portion of the site on Bridge Street being zoned (B3) Business 3. The portion of the Project at 1530 Bridge Street previously had a residential house that has been removed and is separated from the remainder of the Project by a small intermittent stream and wetlands.

BK 26921 Pg. 219

6. During the public hearing, the Applicant was assisted primarily by its counsel, Melissa Robbins, Esq., of Deschenes & Farrell, PC., its civil engineer Susan E. Carter, P.E., LEED AP of Places Associates, Inc., its architect Ahmed Idris, AIA, LEED AP BD&C of BWA Architecture.
7. The Board utilized the services of the Town Engineer Mark Hamel, to review the civil engineering and stormwater concerns for the Project. The Board also utilized the services of Stantec Consulting Services, Inc. to review traffic for the Project.
8. During the public hearing, there was significant public input. The Board heard input from abutters and other interested persons throughout the hearing process.

## II. JURISDICTIONAL FINDINGS

9. The Applicant has demonstrated its eligibility to submit an application for a Comprehensive Permit to the Board, and the development fulfills the minimum project eligibility requirements set forth in 760 CMR 56.04(1) as follows:
  - a. The Applicant is a nonprofit corporation. The Applicant has a principal address of 155 Merrimack Street, Lowell, MA 01852.
  - b. The Applicant has received a written determination of Project Eligibility from Department of Housing and Community Development dated September 20, 2019, a copy of which was provided to the Board with the original application.
  - c. The Applicant provided a copy of RFP Letter from the Town of Dracut dated May 21, 2019. Thus, the Applicant has shown evidence of site control sufficient to qualify as an Applicant for a Comprehensive Permit.
10. The Town of Dracut ("Town") does not meet the statutory minima set forth in G.L. c. 40B, § 20 or 760 CMR 56.03(3) to 56.03(7):
  - a. At the time of the filing of the Application, the number of low or moderate income housing units in the Town constituted 5.21% of the total year-round units in the Town, based on the most recent publicly available copy of the DHCD Subsidized Housing Inventory, dated June 23, 2020. Thus, the Town does not meet the ten percent (10%) statutory minimum.
  - b. The Town does not have information that there are existing affordable housing units that are on sites that comprise more than one and one half percent (1.5%) of the total land area of the Town that is zoned for

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

- c. The granting of this Comprehensive Permit will not result in the commencement of construction of low or moderate income housing units on a site comprising more than three tenths of one percent of land area in the Town or ten acres, whichever is larger, zoned for residential, commercial or industrial uses (excluding land owned by the United States, the Commonwealth of Massachusetts or any political subdivision thereof) in any one calendar year.
- d. The Town has an approved Housing Production Plan pursuant to 760 CMR 56.03(4), for which this site is identified as a "Priority Site" but is not currently within (or eligible for) certification.
- e. The Town has not achieved recent progress toward its housing unit minimum pursuant to 760 CMR 56.03(5).
- f. The Project does not constitute a Large Project pursuant to 760 CMR 56.03(6).
- g. The Applicant's Comprehensive Permit Application does not constitute a Related Application pursuant to 760 CMR 56.03(7).

### III. FACTUAL FINDINGS

#### Location of Project

- 11. The Project is located at 144 Greenmont Avenue and 1530 Bridge Street, Massachusetts. The Property has frontage on both Greenmont Ave and Bridge Street (Route 38). The Property is located within the R1 and B3 Zoning District.

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

- 12. The Board used the services of the Town Engineer, Mark Hamel.
- 13. The Project will connect to the Dracut municipal water and municipal sewer systems. The Applicant shall be responsible for making separate applications to the Water Commission and Sewer Department.
- 14. The Applicant proposes to construct seventy-seven (77) parking spaces for the Project. Included within the seventy-seven (77) parking spaces are eight (8) handicapped-accessible spaces.

15. On-site amenities will include a community garden with raised bed gardens on the southerly side of the Project to be used by residents interested in growing their own vegetables. A fenced dog walk area will be available for seniors with dogs.
16. The Board finds that the landscaping proposed by the Applicant is sufficient. The overall design will emphasize the use of low maintenance, native plantings and strive to integrate the proposed development's needs into the site's surrounding environment.
17. Stormwater management has been designed in compliance with the Mass Stormwater management standards in accordance with 310 CMR 10.05(6)(k) through (q) and defined in detail in the MassDEP Stormwater Management Handbook. The system incorporates Best Management Practices (BMP's) to facilitate Total Suspended Solids (TSS) removal, detention of stormwater flows.
18. The Project, as conditioned herein, will address the lack of affordable senior rental unit in the Town.
19. The Board heard testimony from the Applicant and the Board's traffic consultant, including the Applicant's Traffic Impact Study that the Project is expected to result in approximately twelve (12) vehicle trips during the weekday morning peak hour and approximately seventeen (17) vehicle trips during the weekday afternoon peak hour, and a total of two hundred and sixteen (216) vehicles trips per weekday.
20. The Board finds that the conditions imposed in Section IV of this Decision are necessary in order to address Local Concerns. The Board finds that such conditions will not render the project uneconomic. To the extent that such conditions may render the project uneconomic (as defined in 760 CMR 56.02), the Board finds that the Local Concerns outweigh the potential benefits of the proposed affordable units.
21. The Board finds that granting certain waivers from local by-laws and regulations is acceptable even though granting waivers may have an adverse impact on Local Concerns.
22. The Board acknowledges concerns raised by abutters and other interested parties about the Project's potential incompatibility with abutting residential uses, including concerns relating to increased traffic. The Board has addressed these concerns by hiring Stantec to review traffic impacts and the imposition of appropriate conditions. The Board further finds that conditions detailed below appropriately address these matters of local concern in a manner that outweighs the regional need for affordable housing. The Board finds that the conditions

imposed below addresses local and regional housing needs while properly protecting valid issues of local concern.

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

#### IV. CONDITIONS

##### A. **General**

- A.1 The holder of this Comprehensive Permit is Common Ground Development Corporation, including its assigns, affiliates, and successors. Common Ground Development will be part of any assigned or successor organization. The Property is defined as the property located at 144 Greenmont Avenue and 1530 Bridge Street, Dracut, Massachusetts. The Project is defined as all features shown on the plans listed below in Condition A.2 or as otherwise required by this Comprehensive Permit.
- A.2 Except as may be provided for in the following Conditions or in the Final Plans referenced below, the Project shall be constructed substantially in conformance with the plans and drawings listed below in this Condition A.2, which for purposes of this Comprehensive Permit shall be considered the Approved Plans for the Project ("Approved Plans"). Minor field changes, which are generally allowed by the Town Engineer or Building Department, shall be allowed without further relief from the Board if approved by appropriate Town Staff with notice to the Zoning Board of Appeals. All other changes to Approved Plans shall be completed in accordance with 760 CMR 56.05(11). The Approved Plans consist of the following plan set from Places Associates, Inc.:

##### Engineering Plans

Plans Entitled "Dracut Senior Housing"

Location: 144 Greenmont Avenue, Dracut, MA 01826

Applicant: Common Ground Development Corp.

Owner: Town of Dracut

Engineering Firm: Places Associates, Inc.

Stamp: Susan Carter

Date of Plans (with revised dates to): October 23, 2019 with revisions through August 13, 2020

Scale of Plans: Varying

Job Number: 5278

Sheet Index:

C-0	Notes and Legend
C-1.0 through C-1.3	Existing Conditions and Demo Plan
C-2.0 through C-2.2	Layout and Materials Plan
C-3.0 through C-3.3	Grading and Drainage Plan
C-4.0 through C-4.3	Utility Plan
C-5.0	Erosion & Sedimentation Control Plan
C-6.0 through C-8.0	Construction Details
L-1	Landscape Plan
T-1	Turning Movement Plan

Lighting Plan

“Greenmont Senior Living, Dracut, MA, Site Lighting” prepared by Progress Lighting Commercial dated August 18, 2020 containing 1 sheet.

Architectural Plans

Plans Entitled “Dracut Center Senior Housing”

Location: 1530 Bridge Street, Dracut, MA 01826

Applicant: Common Ground Development Corp.

Owner: Town of Dracut

Engineering Firm: BWA Architecture

Stamp: Ahmed Idris

Date of Plans (with revised dates to): October 23, 2019

Scale of Plans: 1/32” = 1'-0”

Job Number: 1916

Sheet Index:

A0.01	Abbreviations, Symbols, General Notes
A0.02	Unit Key Plan and Area Plans
A0.03	Perspective Views
A2.10	Floor Plan – Level 1
A2.11	Floor Plan – Level 1 North
A2.12	Floor Plan – Level 1 South
A2.20	Floor Plan – Level 2
A2.21	Floor Plan – Level 2 North
A2.22	Floor Plan – Level 2 South.
A2.30	Floor Plan – Level 3
A2.31	Floor Plan – Level 3 North

<u>A2.32</u>	<u>Floor Plan – Level 3 South</u>
<u>A2.40</u>	<u>Attic Plan</u>
<u>A2.50</u>	<u>Roof Plan</u>
<u>A3.01</u>	<u>East and West Elevations</u>
<u>A3.02</u>	<u>North Elevations</u>
<u>A3.03</u>	<u>South Elevations</u>

- A.3 The Project shall consist of not more than sixty (60) rental apartment units to qualified applicants aged 62 and older (except as allowed by law), located in one (1) residential structure, and other related residential amenities, all as shown on the Approved Plans. The Project shall consist of fifty-four (54) one-bedroom apartments, six (6) two-bedroom apartments units. This Project will have a total of sixty-six (66) bedrooms. All units shall comply with DHCD design standards that facilitate the conversion of Group 1 units to full handicapped accessible Group 2 units.
- A.4 There shall be a minimum of seventy-seven (77) parking spaces inclusive of eight (8) required handicap spaces.
- A.5 Pursuant to the revised Waiver List submitted to the Board and attached hereto as Exhibit A, the Applicant has requested, and the Board has granted, those waivers from the Dracut Zoning Bylaw and other local by-laws and regulations as specified therein. No waivers are granted from requirements that are beyond the purview of G.L. c. 40B, §§ 20-23. No waiver of water or sewer fees has been granted. Any subsequent revision to the Approved Plans, including but not limited to revisions in the Final Plans that require additional or more expansive waivers of any local by-laws or regulations, must be approved by the Board in accordance with 760 CMR 56.05(11).
- A.6 Except as otherwise specifically provided herein, where this Decision provides for the submission of plans or other documents for approval by the Community Development Director or other Town Departments, the Community Development Director, Inspector of Buildings or applicable Department Head will use reasonable efforts to review and provide a written response within thirty (30) days following submission. For submissions that require assistance from an outside consultant, as determined by the Inspector of Buildings, Zoning Board of Appeals or applicable Department Head, the thirty-day time period shall not begin until the consultant's fee has been fully funded by the Applicant.



- A.7 The provisions of this Comprehensive Permit Decision and Conditions shall be binding upon the successors and assigns of the Applicant, and the obligations shall run with the land. In the event that the Applicant sells, transfers, or assigns its interest in the development, this Comprehensive Permit shall be binding upon the purchaser, transferee, or assignee and any successor purchasers, transferees or assignees. The applicable limited dividend restrictions shall apply to the owner of the project regardless of sale, transfer, or assignment of the project.
- A.8 The sidewalks, driveways, roads, utilities, drainage systems, and all other on-site infrastructure shown on the Approved Plans, as serving the Project shall remain private in perpetuity, and the Town shall not have, now or in the future, any legal responsibility for the operation or maintenance of the infrastructure, including but not limited to snow removal and landscape maintenance. In this regard, the proposed site access road within the Project shall not be dedicated to or accepted by the Town.
- A.9 Unless otherwise indicated herein, the Board may designate an agent to review and approve matters on the Board's behalf subsequent to this Decision.

**B. Affordability**

- B.1 As proposed by the Applicant, pursuant to the applicable subsidy program, one hundred percent (100%) of the rental units shall be income-eligible households, meaning that eighty percent (80%) of the units shall be rented to, and occupied by, households whose income (adjusted for household size) is not more than sixty percent (60%) or lower of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD and twenty percent (20%) of the units shall be rented to, and occupied by, households whose income (adjusted for household size) is not more than thirty percent (30%) or lower of the Area Median Income ("AMI"), as determined by the United States Department of Housing and Urban Development ("HUD") and DHCD (collectively the "Affordable Units").
- B.2 All of the Project's Affordable Units shall be restricted for rental to households earning no more than the maximum allowable AMI by DHCD or any substitute Subsidizing Agency. The Affordable Units shall be maintained as affordable in perpetuity, which for the purposes of this Decision shall mean for so long as the Property does not comply to applicable zoning requirements without the benefit of this Comprehensive Permit. The Project is in conformance with the required affordability levels for Dracut Community Preservation Committee as the Project will be using three (3) million dollars of its affordable housing funds for this Project.

- B.3 The Applicant shall obtain approval by the Subsidizing Agency of an Affirmative Fair Housing Marketing Plan (“AFHMP”) prior to the rental of any Affordable Units, and shall ensure that the Project complies with the Subsidizing Agency’s Fair Housing requirements.
- B.4 For the initial rent-up of the Project, the maximum number of Affordable Units allowed by law and the applicable subsidy program, but not more than seventy percent (70%) of the Affordable Units, shall be reserved for households that qualify under a local preference definition approved by the Subsidizing Agency. A lottery shall be established in a form approved by the Subsidizing Agency and/or the Project’s Monitoring Agent to effectuate this local preference, with an approved secondary lottery for all other Applicants. The Applicant shall assist the Town in the submittal of any evidence required by the Subsidizing Agency to support this local preference requirement. The Board acknowledges that the Town of Dracut will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference and to obtain approval of the categories of persons qualifying for the same, and in no event shall the Applicant be in violation of the terms of this Comprehensive Permit to the extent the Subsidizing Agency disapproves the local preference requirement or any aspect thereof. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence.

**C. Submission Requirements**

- C.1 Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Property, whether or not pursuant to a building permit (except as allowed by the Community Development Director or Inspector of Buildings, as noted below), the Applicant shall:
- a. Deliver to the Board a check in a reasonable amount determined by the Community Development Director to be used for staff to retain outside experts, if necessary, for technical reviews and inspections required under these conditions. Said funds shall be deposited by the Board in an account pursuant to G.L. c. 44, § 53G and shall only be used for technical reviews and inspections associated with this Project. Any unspent funds, including any accrued interest earned, shall be returned to the Applicant once the Project is deemed completed by the Zoning Board of Appeals. If at any time the Board reasonably determines that there are insufficient funds to cover the costs of technical reviews, it shall inform the Applicant and the Applicant shall forthwith deliver additional funds as specified by the Board in a reasonable amount as may be determined by the Board. Said funds may be used by the Board to hire civil engineering, traffic engineering, and/or other professionals that the Board deems reasonably necessary to ensure compliance with the conditions hereof.

- b. Obtain and file a copy of a National Pollution Discharge Elimination System (erosion) Permit from the U.S. Environmental Protection Agency (EPA), if necessary. The Board shall also be provided a copy of the Stormwater Pollution Prevention Plan (SWPPP) submitted along with the NPDES filing.
- c. The Applicant will install erosion and sedimentation controls and will have them inspected by the Stormwater Manager and Conservation Agent prior to commencement of construction.
- d. The Applicant will provide to the Town of Dracut Engineering Department and Sewer Department the Operation and Maintenance Plan (O&M) for the Sewer Pump Station.
- e. Submit to the Board for review and administrative approval Final Engineering Drawings and Plans ("Final Plans"), that conform to the requirements of this Comprehensive Permit and incorporate the conditions herein. The Final Plans shall also incorporate all conditions and requirements of permitting agencies having jurisdiction. Applicable sheets of the Final Plans shall be signed and sealed by the Professional Land Surveyor of record, the Professional (Civil) Engineer of record. Final Architectural Plans shall be stamped by a Registered Architect. The Final Plans shall be submitted to the Board at least forty-five (45) days prior to the anticipated date of commencement of building construction or submission of an application for building permits, whichever is earlier (the "Final Site Plan Submission Date").
- f. Submit to the Inspector of Buildings a construction mitigation plan including, but not limited to, dust control measures, fill delivery schedules, stockpiling areas, and like matters. Other than site work and such other work as may be authorized in writing by the Inspector of Buildings, no other construction of units shall commence and no building permits shall be issued under this Comprehensive Permit until the Inspector of Buildings and other applicable staff has approved the Final Plans as being in conformance with this Decision. If no written response or comments have been given to the Applicant by the Inspector of Buildings concerning the Final Site Plans within thirty (30) days after the Final Site Plan Submission Date, the Final Plans, as delivered, will be deemed to have been approved.
- g. The Applicant must submit an application to the Town of Dracut E-911 committee for address and unit numbering.

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

- a. Record this Comprehensive Permit and associated plans attached as an exhibit as described in section C.1 e. with the Middlesex North Registry of Deeds, at the Applicant's expense, and provide proof of such recording to the Board.
- b. Submit to the Board and the Community Development Director evidence of Final Approval from the Subsidizing Agency, as required by the Project Eligibility letter and the Chapter 40B regulations.
- c. Submit to the Board a copy of the Regulatory Agreement and Monitoring Services Agreement for the Project.
- d. Submit to the Inspector of Buildings and Zoning Board of Appeals the final Architectural Plans prepared, signed, and sealed by an architect with a valid registration in the Commonwealth of Massachusetts ("Architectural Plans"). The Architectural Plans shall be submitted in such form as the Inspector of Buildings may request in conformance with Local and State Building Code.
- e. An automatic sprinkler system conforming with NFPA 13 and a fire alarm system conforming to NFPA 72 shall be required.
- f. Obtain and file with the Inspector of Buildings a copy of all required Federal, State, and local permits and approvals required to begin construction of the Project.
- g. Obtain all necessary building, electrical, plumbing, and associated permits required to begin construction of the Project required by state law.

**D. Construction Completion/Certificate of Occupancy**

D.1 Prior to issuance of a certificate of occupancy, the Applicant shall:

- a. Provide as-built site plans signed and sealed by the Applicant's Professional (Civil) Engineer of Record. These plans shall include all storm water facilities including elevations and volumes and underground utilities in a general manner based on surfaces features and contractor's notes. Final as-builts shall be provided in electronic format (both AutoCAD and PDFs) as well as a stamped mylar copy to be submitted to the Inspector of Buildings.

- b. Provide a letter to the Board, signed by the Applicant's civil engineer, certifying that the Project has been constructed in compliance with the Final Plans in all material respects.
- c. Obtain acceptance from the Dracut Fire Department of testing of all fire protection systems, fire alarm systems, fire sprinkler systems, and local smoke alarms within the dwelling units.
- d. The Applicant shall provide to the Board evidence of a property management plan (if property management will be done in-house) or shall provide a copy of a contract with a Management Company if property management will be conducted by a third-party. The management plan shall be deemed acceptable if reviewed and approved by DHCD.

**E. Project Design and Construction**

- E.1 Prior to the commencement of any work on the Property, the Applicant and the site general contractor shall attend a preconstruction conference with the Community Development Director, Inspector of Buildings and other Town Staff as may be determined.
- E.2 The Applicant reasonably shall permit representatives of the Town of Dracut's Inspectional Departments to observe and inspect the Property and construction progress until such time as the Project has been completed and the final occupancy permit issued.
- E.3 The proposed construction shall be in accordance with applicable Federal and State laws, rules, and regulations.
- E.4 During construction, the Applicant shall conform to all local, State, and Federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Adequate provisions shall be made by the Applicant to control and minimize dust on the site during construction in accordance with the construction mitigation plan, including the use of a gravel mat at the Greenmont entrance as needed. The Applicant shall keep all portions of any public way used as access/egress to the Project free of soil, mud or debris deposited due to use by construction vehicles associated with the Project.
- E.5 The Applicant has requested a waiver from the Town of Dracut Zoning Bylaws regarding signs setback. The approved sign location is shown on the Plan. The sign shall be in conformance with the multi-family sign size requirements in the Dracut Zoning Bylaw without further relief from the Board.

- E.6 The location of all utilities, including but not limited to electric, telephone, and cable, shall be shown on the Final Plans. All transformers and other electric and telecommunication system components shall be included on the Final Plans.
- E.7 The Applicant shall install lighting as shown on the lighting plan.
- E.8 Utilities, including but not limited to telephone, electric, and cable, shall be located underground.
- E.9 Soil material used as backfill for pipes, access drives, or structures shall be certified by the Geotechnical Engineer to the Inspector of Buildings as meeting design specifications, as applicable.
- E.10 Construction activities shall be conducted as allowed by the Town of Dracut Building Department, Engineering Department and Stormwater Department as allowed by their regulations, except as waived in this Comprehensive Permit
- E.11 During construction, the site shall be secured against unauthorized entry or vandalism by fencing, or other appropriate means, and all construction materials shall be stored or stockpiled in a safe manner. Any floodlights used during the construction period shall be located and directed so as to prevent spillover or illumination onto adjacent properties. All construction activities are to be conducted in a workmanlike manner.
- E.12 All dumpsters serving the Project shall be enclosed and covered (with the exception of construction dumpsters used during construction).
- E.13 Snow shall be stored within the areas of the Property designated on the Approved Plans. To the extent snowfall exceeds the capacity of the designated snow storage areas, the Applicant shall truck the excess snow off-site.
- E.14 The Applicant shall comply with all applicable state and federal requirements relating to noise from construction activities, including the regulations contained at 310 CMR 7.10 and the DEP's Noise Policy contained in DAQC Policy 90-001. The Applicant shall also implement all necessary controls to ensure that vibration from construction activities does not constitute a nuisance or hazard beyond the Property. Upon notification from appropriate municipal officials, the Applicant shall cease all construction activities creating noise in excess of state and federal standards, and shall implement such mitigation measures as is necessary to ensure the construction activity will comply with applicable State and Federal requirements.

- E.15 The Applicant is responsible for the sweeping, removal of snow and sanding of the internal roadways and driveways providing access to both the residents of the Project and emergency vehicles.
- E.16 The Applicant shall maintain all portions of any public road, whether state or local roads, used for access to the Property by construction vehicles, free from soil, mud or debris deposited due to such use during the duration of construction.
- E.17 The Applicant shall comply with DPW requirements regarding curb-cut permits.
- E.18 To the extent the Applicant needs to bring fill onto the Property, such fill shall be clean in nature, and the Applicant shall ensure that it has not been brought from any contaminated source. Any material brought onto the site shall not contain any construction debris, stumps, wood chips, other decomposable organic material, winter treated sand or sand/salt mixtures or parking lot sweepings. No hazardous materials shall be used as fill. No processing of material shall be done onsite.
- E.19 The schedule of construction activities (including days of week and time of day) shall comply with the Town of Dracut's Zoning Bylaws.

**F. Traffic/Traffic Safety Conditions / Sidewalks**

- F.1 Access and egress to the Project shall be via Greenmont Avenue, consistent with the Approved Plans. Secondary limited Pedestrian access will be allowed from Bridge Street as shown on the Plan.
- F.2 No access and egress of any kind will be allowed from Ontario Road.
- F.3 A bus stop shelter shall be installed along Greenmont Avenue as shown on the Plan. The location of the bus stop shelter cannot interfere with site distance.
- F.4 The Applicant shall ensure that adequate snow storage is provided at the site, and that trash bins and pick-up activity will not block on-site parking or circulation.
- F.5 The Applicant shall install the following mitigation measures as detailed in a letter prepared by Gary L. Hebert of Stantec Consulting Services, Inc. dated August 27, 2020 as follows:
  - a. Install a new crosswalk using Dracut's standard yellow crosswalk design across Greenmont Avenue to the East side of the site driveway.
  - b. Concurrently request that the Lowell Regional Transportation Authority (LRTA) provide a new bus stop on Greenmont Avenue in front of the site serving both sides at the new crosswalk.

**G. Police, Fire, and Emergency Medical Conditions**

- G.1 The Applicant shall provide professional property management and maintenance personnel on the premises during normal daytime hours and an emergency contact name and number for tenants and the Dracut Police and Fire Departments.

**H. Water, Sewer and Utilities**

- H.1 The Applicant shall be responsible for the design and installation of the utilities servicing the Project.
- H.2 All water infrastructure shall be installed in conformance with the Dracut Water Supply District requirements, and their approval shall be obtained prior to the commencement of construction.
- H.3 Fire hydrants shall be placed as shown on the Approved Plans in locations approved by the Dracut Fire Department. If the Dracut Fire Department approves different hydrant locations, such modification shall be accepted as an insubstantial change pursuant to 760 CMR 56.05(11).
- H.4 All sewer infrastructure shall be installed in accordance with the Dracut Sewer Department requirements, and their approval shall be obtained prior to commencement of construction. The Town of Dracut shall not have any legal responsibility for the operation and maintenance of any such infrastructure within the bounds of the property.
- H.5 All water and sewer improvements necessary, if any, to serve the Project must be completed, and interim as-built plans must be submitted to and approved by the Water and Sewer Departments, before any occupancy permits for the Project may be issued.
- H.6 Utilities shall be installed underground by the Applicant using methods standard to those installations. Utilities shall be defined as electric service lines, telephone lines, water service lines, CATV lines, municipal conduit, and the like.
- H.7 The Applicant shall be responsible for all trash and recycling removal from the Property. The Town of Dracut shall not have any responsibility for trash and recycling pickup at the Property.



**I. Wetlands/Environmental Conditions**

- I.1 The Applicant proposes work within the one-hundred-foot buffer zone to a wetland. On August 19, 2020, the Conservation Commission approved a Notice of Intent (NOI) authorizing the work within the buffer zones on the Property. All work shall be done in accordance with this approval.

**J. Other General Conditions**

- J.1 The Operation and Maintenance Plan for the roadway will include a requirement that street sweeping takes place two (2) times a year and when debris is 50% accumulated in the basins.
- J.2 The Applicant will provide for a ten (10) foot wide mow strip around the perimeter of walks, driveways, dog walk area and community garden in order to control invasive species and provide tick control.
- J.3 This Decision will be deemed to be final upon the expiration of the appeal period with no appeal having been filed or upon the final judicial decision following the filing of any appeal, whichever is later. In accordance with 760 CMR 56.05(12)(c), this Comprehensive Permit shall expire three (3) years from the date that the permit becomes final, unless (i) prior to that time substantial use of the Comprehensive Permit has commenced or (ii) the time period is otherwise tolled in accordance with law. The Applicant may timely apply to the Board for extensions to the Comprehensive Permit as permitted by law.
- J.4 The Applicant shall comply with all local regulations of the Town and its boards, commissions, and departments unless specifically waived herein or as otherwise addressed in these conditions.
- J.5 The Applicant shall copy the Board on all correspondence between the Applicant and any federal, state, or Town official, board, or commission concerning the conditions set forth in this decision, including but not limited to all testing results, official filings, environmental approvals, and other permits issued for the Project.

- J.6 In the event that the Applicant (or its Management Company) fails to maintain the stormwater management system for the Project in accordance with its operation and maintenance plan, the Town may conduct emergency maintenance and/or repair, as it deems necessary, and the Applicant shall, prior to the issuance of any certificates of occupancy, convey such easement or other rights in a form mutually acceptable to the Town and the Applicant as may be reasonably necessary to complete such repair and/or maintenance. In the event the Town is required to perform such maintenance, the Applicant shall reimburse the Town within forty-five (45) days for all of its reasonable expenses related to such work.
- J.7 The Project entrance way and interior roads, and drainage systems associated therewith shall remain private, and the Town shall not have any legal responsibility for the operation and maintenance of such. The Town shall also have no obligations relating to the proposed recreational areas such as the community garden and dog park on the Property, the construction and operation of which shall be the sole responsibility of the Applicant.
- J.8 If any default, violation or breach of these conditions by the Applicant is not cured within thirty (30) days after notice thereof (or such longer period of time as is reasonably necessary to cure such a default so long as the Applicant is diligently and continuously prosecuting such a cure), then the Town may take one or more of the following steps: (a) by mandamus or other suit, action or other proceeding at law or in equity, require the Applicant to perform its obligations under these conditions; or (b) take such other action at law or in equity as may appear necessary or desirable to enforce these conditions. If the Town brings any claim to enforce these conditions, and the Town finally prevails in such claim, the Applicant shall reimburse the Town for its reasonable attorneys' fees and expenses incurred in connection with such claim.
- J.9 Final Architectural As-builts shall be submitted to the Inspector of Buildings within thirty (30) days of the issuance of the final Occupancy Permit for the Project.
- J.10 The Applicant will have a policy that all pet owners are responsible for cleaning up after their own pets.
- J.11 The Applicant will enter a lease with the Town of Dracut which will allow for the construction development and maintenance of the project.

**DECISION**

In consideration of all of the foregoing, including the plans, documents and testimony given during the public hearing, the Board hereby grants the Applicant a comprehensive permit for the construction of sixty (60) rental apartment units pursuant to Chapter 40B, §§ 20-23, for the development described above.

**RECORD OF VOTE**

The Board of Appeals voted unanimously, at its public meeting on September 17, 2020, to grant a Comprehensive Permit, including waivers, subject to the above-stated Conditions, with this decision as attested by the signatures below.

**Board of Appeals Members**

Robert S. Mallory  
R. Scott Mallory, Chairman

Merylle C Chase  
Merylle Chase, Clerk

W. Hunt, Jr.  
Warren Hunt, Jr. Member

not voting  
Joseph DiCarlo, Alternate Member

Brian Lussier  
Brian Lussier, Vice Chairman

John Crowley  
John Crowley, Member

not voting  
Nicholas Jarek, Alternate Member

Dated: September 22, 2020

Heather M. Graham  
Town Clerk

Filed with the Town Clerk on Sept 22, 2020

**Notice:** Appeals, if any, by any party other than the Applicant, shall be made pursuant to Massachusetts General Laws, Chapter 40A, s. 17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Dracut, Massachusetts. Any appeal by the Applicant shall be filed with the Housing Appeals Committee pursuant to G. L. c. 40B, § 23, within twenty (20) days after the filing of this notice in the Office of the Town Clerk.

## **EXHIBIT A - WAIVERS**

### **TOWN OF DRACUT ZONING BYLAWS**

#### **1.16.20-1.16.30 Site Plan Special Permit and Site Plan Review**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. This process would be redundant with the Comprehensive Permit process as established by State regulations and by the Dracut Zoning Board of Appeals.

#### **1.17.00 Applicability**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. This process would be redundant with the Comprehensive Permit process as established by State regulations and by the Dracut Zoning Board of Appeals.

#### **2.11 Regulation of Uses**

An exception is being requested from this section and all subsections as Multi-family dwelling as proposed in the Development is a use that is not allowed in the By-laws.

#### **2.12.10 Intensity of Use (Dimensional Requirements)**

An exception is being requested from this section and all subsections as this section specifically states that no structure or building shall be used or constructed except in accordance with the Town of Dracut Zoning Bylaws as to Dimensional Requirements. The Applicant will be seeking dimensional relief from the Dracut Zoning Bylaws.

#### **2.12.42 Frontage (Including Table of Dimensional Requirements)**

An exception is being requested from this section to allow for a frontage of 113 feet where 175 feet is required in a R-1 Zoning District.

#### **2.12.48 Height in Feet (Including Table of Dimensional Requirements)**

An exception is being requested from this section to allow for a Maximum Building Height of 52.5 Feet where 36 Feet is the allowed maximum height in the R-1 Zoning District; and to allow for a three (3) story building where 2.5 stories is the maximum allowed by the Town of Dracut Zoning Bylaws.

#### **2.14 Wetland and Water Conservancy District**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices.

#### **Section 3.00 Parking and Loading**

An exception is requested from this section and all subsections to allow for a multifamily use in an R-1 Zoning District with seventy-seven (77) parking spaces, including eight (8) handicap spaces as designed on the Development Plan where two (2) spaces per unit is required by the Town of Dracut Zoning Bylaws.

**Section 3.11.00 Sign Requirements**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. Any and all signs will be installed in conformance with the size requirements for a multi-family sign, however, an exception is requested to allow for a sign as shown on the Plan within the setback from Greenmont Avenue.

**Section 3.12.00-3.12.80 Permit for Soil Vegetation, Rock and Gravel Removal**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. Any and all soil, vegetation, rock and gravel shall be removed subject to a Comprehensive Permit, without further relief from the Town of Dracut Planning Board or Board of Selectmen.

**3.14.00-3.14.73 Buffering, Screening and Grading Requirements**

An exception is requested from these section and all subsection to allow for the buffering, screening and grading as shown on the Development plans.

**3.15 Environmental Review Standards.**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. All Environmental review and conditions will be the subject of a Comprehensive Permit and will not be subject to any further review by the Town of Dracut, except for that relief required by State law.

**4.12.00-4.12.30 Special Permits-Multifamily Development**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. This process would be redundant with the Comprehensive Permit process as established by State regulations and by the Dracut Zoning Board of Appeals.

**General Bylaws:**

**Chapter 8A, Sections 1 through 17 Streets and Sidewalks**

An exception is requested from this section to allow for a waiver of fees for street opening as well as issuance of all necessary relief through the Comprehensive Permit without any further relief from any additional Town Board or Departments.

**Chapter 9, section 10, 11 Building Construction**

An exception is requested from this section to allow for construction on undeveloped streets with all necessary relief through the Comprehensive Permit. This process would be redundant with the Comprehensive Permit process as established by State regulations and by the Dracut Zoning Board of Appeals.

**Chapter 13 Section 2 Earth Removal**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. This process would be redundant with the Comprehensive Permit process as established by State regulations and by the Dracut Zoning Board of Appeals.

Decision on Application for Comprehensive Permit  
Common Ground Development Corporation  
1530 Bridge Street and 144 Greenmont Avenue  
September 17, 2020  
Page 21 of 21

**DRACUT BOARD OF APPEALS PROCEDURES FOR A SPECIAL PERMIT AND/OR VARIANCE**

An exception is requested from these sections and all subsections, as the Development shall follow requirements of M.G.L Chapter 40B and its regulations, guidelines, and practices. This process would be redundant with the Comprehensive Permit process as established by State regulations and by the Dracut Zoning Board of Appeals. A specific waiver is requested for all fees to the Zoning Board of Appeals.

**Permit Fees—Town of Dracut Building Department**

The Applicant requests a waiver from any and all Building Permit Fees and Sign Fees from the Town of Dracut.

I, KATHLEEN GRAHAM, CLERK of the TOWN of  
DRACUT, MASS., HEREBY CERTIFY that the NOTICE  
of VARIANCE by the DRACUT BOARD of APPEALS has  
BEEN RECEIVED and RECORDED at this OFFICE and  
NO APPEAL was RECEIVED DURING the TWENTY DAYS  
NEXT AFTER SUCH RECEIPT and RECORDING of SAID NOTICE  
11/09/2020 \_\_\_\_\_  
Date Town Clerk, Dracut, Mass.

RECEIVED  
TOWN CLERK'S OFFICE  
2020 NOV -5 AM 9:04  
KATHLEEN GRAHAM  
TOWN CLERK  
DRACUT, MA

RECEIVED  
2020 SEP 22 PM 2:55  
TOWN CLERK'S OFFICE