



# TOWN OF WESTON

PLANNING BOARD  
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## **Weston PB Comments to Weston Board of Appeals 751 BPR/Mill Creek 40B Application September 16, 2020**

Chair Li and Members of the Zoning Board of Appeals,

The Planning Board would like to offer its final comments on 751 Boston Post Road prior to the close of the public hearing and express its appreciation for the over one-year's worth of hearings on this matter.

### **Overview**

On June 19, 2019 the Planning Board sent comments to the Zoning Board of Appeals based on over three months of comprehensive outreach, study, negotiations, two Planning Board Hearings, two Planning Board meetings, 26 meetings and hearings with over ten Town officials, three independent experts, 30 neighbors, Town counsel, and the applicant and the applicant's team of experts.

As the public hearing will be closing and the Zoning Board of Appeals has issued a draft decision, the Planning Board has reviewed the proposed concerns and mitigations in the June 19<sup>th</sup> memo and their status in the project as currently proposed. Overall, the Planning Board asks that the ZBA be as consistent as possible with the Planning Board's original comments given the resultant improvements in the project based on this initial review.

For further consideration and aid in negotiations with the applicant, we have provided a full status report on each mitigation measure based on our current understanding of the project and proposed conditions where mitigations remain unresolved.

### **Previously Negotiated Mitigations, Status and Proposed Conditions.**

<b>A. Architecture</b>			
<b>A.1 Apartment Front Elevations</b>	<b>Originally Proposed Mitigation - June 19, 2020</b>	<b>Status – as shown on plans dated May 4, 2020</b>	<b>Condition</b>
	a) Reduce or eliminate the vertical elements that accentuate height of the mid-rise buildings.	Sheets A4.03 and A4.05 show the gable dormers adjusted to reduce visual impacts and actual height of the buildings, and the proposed colors for the	None Needed
	b) Change building color scheme to include a variety of natural		

	muted tones to reduce apparent mass-	buildings from white to earth-tone brick shade.	
	c) Relocate third level apartments at front of multifamily building to terrace level at rear.	Sheets A1.06 and A5.00 show the prior 3rd floor units removed on south side of Buildings A & B and replaced with units at the garage level on the north side of Buildings A & B.	None Needed
	d) Provide additional height reduction: Further lower and break up of roof plane on multifamily building.	Sheets A4.03, A4.05 and A5.00 show the lowered roof pitch of main roof of Buildings A & B.	None needed
<b>A.2 Apartment Rear/Rail Trail Elevations</b>	Same as #A1b above	Same as #A1b above	None Needed
<b>A.3 Town House Elevations</b>	Vary color of buildings; break up massing and individual planes to a more residential scale.	Sheets A4.00 and A4.01 show varied and different earth-tone colors on townhouse elevations	None Needed
<b>A.4 Town House Massing</b>	Provide townhome clusters of varying sizes (four homes and six homes per cluster as opposed to all four-home clusters) to create more visual interest and to better reflect the single-family home character.	Sheet C.200 shows four 6-unit and six 4-unit townhouse buildings. <i>[But you say to the left that the sheet currently shows all 4-unit clusters.]</i>	None Needed

<b>B. Building Systems</b>			
	<b>Mitigation</b>	<b>Status – as of August 19, 2020 hearing</b>	<b>Condition</b>
<b>B.1 Electrical</b>	a) Use LED Lighting throughout the entire project.	Applicant has confirmed they will use LED lighting. A condition requiring this or more efficient lighting should be included in the decision.	B.1.a
	b) Meet the requirements of the Massachusetts Stretch Energy Code as adopted by Weston.	Will be required by building code.	None Needed

	c) Use Energy Star Rated Appliances.	Applicant has confirmed they will use Energy Star Rated appliances. A condition requiring this or more efficient rated appliances should be included in the decision.	B.1.b
	d) Provide individual unit electric meters and bill on individual usage.	Applicant has confirmed they will install individual electric meters. A condition memorializing this should be included.	B.1.c
	e) Use occupancy and vacancy sensors for lighting in internal public areas.	Applicant has confirmed they will use occupancy sensors. A condition memorializing this and defining the allowable level of safety/egress lighting to remain on should be included.	B.1.d
<b>B.2 HVAC</b>	Apartment condensers to be located on roof tops with parapet and 400' from property line. Townhouse condensers to be buffered by berm.	Applicant, in <a href="#">letter dated July 1, 2019</a> , proposed to locate condensers on ground. While the technical challenges of rooftop condensers and the implications for building height are valid; there are visual, acoustical and landscape design concerns with ground-mounted condensers. Placement should be considerate of these factors and reviewed by landscape consultant for adequate screening and fit into overall design.	B.2
<b>B.3 Plumbing</b>	a) Use Low Flow fixtures including low consumption water closets.	Applicant has confirmed they will install low consumption fixtures, individual sub-meters and on-demand water heating. A condition memorializing these measures should be included.	B.3.a
	b) Install individual unit water sub-meters to individual units and bill on individual usage.		B.3.b
	c) Use on-demand water heating for unit washing and bathing.		B.3.c

**B. Building Systems Conditions**

1. In order to promote sustainability by reducing energy consumption and reducing individual tenant electric bills, the applicant shall implement the following:
  - a. Use LED Lighting, or more efficient technology, throughout the entire project.
  - b. Use Energy Star, or other similarly recognized and equivalently efficient, rated appliances.
  - c. Provide individual unit electric meters and bill on individual usage.
  - d. Use occupancy and vacancy sensors for lighting in internal public areas. Minimal lighting required by code for safety and/or egress is allowed to stay on.
2. Prior to Building Permit, the applicant shall submit an updated landscape plan showing the proposed condenser locations for review by the ZBA landscape consultant for adequate screening and integration into landscape design.
3. In order to promote sustainability by reducing water consumption and reducing individual tenant water bills, the applicant shall implement the following:
  - a. Install Low Flow fixtures, including low consumption water closets.
  - b. Install individual unit water sub-meters to individual units and bill on individual usage.
  - c. Install on-demand water heating for individual unit washing and bathing.

<b>C. Construction</b>			
	<b>Mitigation</b>	<b>Status</b> – as of August 19, 2020 hearing	<b>Condition</b>
<b>C.1 Method</b>	Use panelized construction in midrise buildings.	Applicant has agreed, and this strategy should be memorialized in a condition.	C.1
<b>C.2 Oversight</b>	Licensed Site Professional to monitor all site work and soil removal.	Included in draft ZBA decision conditions 50 -55	ZBA Conditions
<b>C.3 Timetable</b>	Construct the project as efficiently as possible so as to minimize disruption of neighborhood quality of life.	Applicant has agreed to this goal, and it should be memorialized in the findings; however, a condition mandating this would be impractical.	Not Practical to Condition

**C. Construction Conditions**

1. In order to reduce construction waste and minimize construction times and the associated impacts to the neighborhood as well as deliver needed housing in the most efficient manner, the applicant shall construct the mid-rise buildings using panelized construction. The applicant shall review the construction procedures, including typical panels, delivery and construction phasing, with the Building Inspector prior to construction permit.

<b>D. Density</b>			
	<b>Mitigation</b>	<b>Status</b> – as shown on plans dated May 4, 2020	<b>Condition</b>
<b>D.1 Bedroom Count</b>	Reduce overall bedroom count by about 20 bedrooms, increasing 1-bedroom units while decreasing 2 bedrooms. There will be no change to 3 bedrooms as that number is regulated by DHCD.	Plans show modified unit count and reduced footprint. Program Summary on sheet T0.02 shows 62 one-bedroom units, 100 two bedroom, and 18 three bedrooms. Original application had 51 one-bedroom units, 111 two bedrooms, and 18 three bedrooms.	None Needed
<b>D.2 Unit Size</b>	Reduce the apartment sizes in order to reduce the massing of the buildings.		

<b>E. Historic Buildings</b>			
	<b>Mitigation</b>	<b>Status</b> - as of August 19, 2020 hearing and plans dated May 4, 2020	<b>Condition</b>
<b>E.1 Barn</b>	Disassemble and relocate to Land Sake site.	Applicant has agreed to disassemble and relocate; Land’s Sake will be responsible for reassembly. Performance timeline should be enforced by condition.	E.1
<b>E.2 Eleanor Raymond West Wing</b>	Relocate and re-use to front along Boston Post Road.	Site Plan shows both structures relocated to the front of the property along BPR with access from the interior roadways. Renovation scope on Eleanor Raymond has been expanded to include interiors. Retaining these buildings should be enforced by an ongoing condition.	E.2
<b>E.3 Farnsworth House</b>	Relocate and reuse to front Boston Post Road		
<b>E.4 Greek Revival House</b>	Renovate this structure in its current location as the leasing office.	The house will be renovated and used as the leasing office. Retaining this building should be enforced by an ongoing condition.	

E. Historic Building Conditions

1. The applicant shall disassemble the historic barn and deliver to Land’s Sake for its reuse prior to Certificate of Occupancy.

2. The Farnworth House, Eleanor Raymond West Wing and Greek Revival House will remain on site as shown on the Site Plans. The applicant may repurpose these structures so long as they remain and retain their historic character. The Greek Revival House must remain in its current location.

<b>F. Landscape</b>			
	<b>Mitigation</b>	<b>Status</b> - as shown on plans dated May 4, 2020	<b>Condition</b>
<b>F.1 Elliston Road Buffer Planting</b>	a) Provide new plantings following guidelines in Appendix V from June 19 <sup>th</sup> memo. Preference for native plantings.	Proposed landscaping on Sheet L1.0 meets these standards and has been reviewed by ZBA consultant.	None Needed
	b) Preserve existing buffer as new plantings and site work allow following guidelines in Appendix V.	Existing buffer will be largely removed to create a planted berm. Some existing unmanicured wooded area of trees and understory shrubs in the depression at the eastern end of the border with Elliston Road properties will remain. Sheet L1.2 shows the property line east of Elliston Road as under an invasive species management program.	None Needed
<b>F.2 Internal Planting</b>	Within development, vary planting arrangement to be less regimented and to create more natural clustered plantings.	Current landscaping meets this mitigation and has been reviewed by ZBA consultant.	None Needed
<b>F.3 Irrigation</b>	Permanent irrigation water to be provided by wells or cisterns. No town water is allowed to be used for irrigation.	Applicant has agreed to not use town water for irrigation. This prohibition should be written in a condition to be maintained in perpetuity.	F.1
<b>F.4 Maintenance</b>	Limit use of fertilizers and pesticides consistent with Mass DEP standards.	Applicant has agreed to limit use of fertilizers and pesticides. Cambridge Water has requested limited use of herbicides,	None Needed

		pesticides and fertilizer in accordance with CMR 31.05.	
<b>F.5 Features</b>	Provide privacy fence if berm is not sufficient for shielding from car lights between entry drive and 745 Boston Post Road	Applicant agreed to this contingency. Specifics of the fencing and when it is required should be noted in condition(s).	F.2

F. Landscape Conditions

1. Permanent irrigation water is to be provided by well, or cisterns. No town water to be used as irrigation.

2. The applicant shall provide an escrow fund to build a 6’ wooden, painted stockade or similar fence bordering the length of the subject property abutting Elliston Road properties. The escrow shall expire and be returned to the occupant two years after the project is 85% occupied.

<b>G. Operations</b>			
	<b>Mitigation</b>	<b>Status</b> - as of August 19, 2020 meeting and on plans dated May 4, 2020	<b>Condition</b>
<b>G.1 Common Office Space</b>	Provide common office space as tenant amenity.	The office spaces are referenced in the draft decision; however, they are not called out on the plans. These spaces should be required by condition to remain and not to be repurposed.	G.1.a
<b>G.2 Bike Share</b>	Provide resident bike share and bike parking (for residents).	Applicant has stated bike storage to be provided in garages; however, specific areas and spaces are not called out.	G.1.d and e
<b>G.3 Occupancy Enforcement</b>	Inspect each unit home at least once per year to ensure occupancy rules are followed.	Applicant has represented that this is consistent with their operational policy.	None Needed
<b>G.4 Leasing Agreement</b>	Include a restriction in lease agreements that specifies dens and lofts may not be used as resident bedrooms.	Applicant has represented that this is consistent with their operational policy.	None Needed
<b>G.5 Parking Charge</b>	Discourage excessive number of cars per unit by charging residents for	Applicant has agreed. The amount of fee should be determined; alternatively,	None Needed

	additional parking space(s).	parking costs can be unbundled from rent.	
<b>G.6 Shuttle Service</b>	Provide a weekday commuter shuttle for residents or contribute to a Town operated or contracted shuttle service for an initial two-year term followed by an annual review with Town.	Applicant has appeared to withdraw support for the shuttle operation. This is an important condition in mitigating traffic impacts and should be enforced through the conditions.	G.1.b & c
<b>G.7 Bike Storage</b>	Provide resident bicycle storage and maintenance.	Applicant has represented storage and maintenance will be in garage; however, specific spaces are not called out on plans. The maintenance of this amenity should be required by condition.	G.1.e
<b>G.8 Recycling</b>	a) Recycle using single-stream process.	Applicant has agreed to this operation.	None Needed
	b) Submit recycling vendor protocols to Weston Sustainability Committee for review and recommendations.	Applicant has agreed to review. Review should be required by condition	G.2

**G. Operations Conditions**

1. In order to mitigate additional traffic generated by the project, the following conditions shall apply:
  - a. The “work from home office spaces” shall be maintained as such. Any repurposing of these spaces shall require a modification of this Comprehensive Permit.
  - b. The applicant shall contribute annually to a town-operated (either by the town itself or through a third party) transit shuttle, as follows:
    - i. The contribution shall become effective when the service is established and when the development reaches 85% occupancy.
    - ii. The initial amount of the contribution shall be \$68,500.
    - iii. Following the initial amount, the amount of the contribution shall be:

Cost to Operate Shuttle – Collected Receipts

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Or, the cost of membership in a Regional Transit Authority (RTA) selected by the town to operate the transit shuttle and the contribution to the

specific shuttle service operation serving the town as determined by the RTA.

- iv. In return, the residents of the development shall have the shuttle fare waived.
  - c. The applicant may at its option elect to run its own shuttle provided that town residents will be allowed to use the shuttle for a nominal fee to be agreed to by the town.
  - d. The applicant shall provide a 10-bike Bike-Share for the development.
  - e. The applicant shall provide and maintain an on-site, covered bike storage and maintenance facility for residents sufficient for 1.5 bikes per unit in the midrise buildings. Any repurposing of this facility shall require a modification of the Comprehensive Permit.
2. Prior to Certificate of Occupancy, the applicant shall submit recycling vendor protocols to Weston Sustainable Committee for review, approval and recommendations.

<b>H. Site Design</b>			
	<b>Mitigation</b>	<b>Status</b> – as shown on plans dated May 4, 2020.	<b>Condition</b>
<b>H.1 Access</b>	a) Create separate entrance and egress drives, and configure the egress drive with two lanes, one each for left exit and right exit.	Sheet C2.01 shows separated 22'-wide entrance and exit lanes.	None Needed
	b) Ensure sufficient fencing to prevent using Elliston Road as pedestrian access.	Sheet C2.02 shows fencing with allowance for fire access.	None Needed
	c) Provide school bus and shuttle pick up area(s).	Applicant has requested that lobby serve as the bus shelter.	None Needed
	d) Provide bus/shuttle shelter		None Needed
	e) Ensure main vehicular entrance is dimensionally sufficient for emergency access.	Plans have been reviewed by Town's consulting Civil Engineer and Fire Dept.	None Needed
	f) Building sign to be consistent with Highland Meadows signage, specifically, downward illumination directed at the sign with no internal lighting and no up-lighting.	Sign details and lighting plans on Sheet D1.0 do not show any up-lighting on the sign. This prohibition should be included in a condition to preclude a future installation.	H.1

<b>H.2 Amenity Location</b>	a) Relocate pool and common house to rear of property between apartment buildings.	Site Plans show pool and common house at this location.	None Needed
	b) Reuse Greek Revival in current location as leasing offices.	Site Plans show Greek Revival to be used as leasing office.	None Needed
<b>H.3 Exterior Lighting</b>	Use shielded and cut-off fixtures.	Site lighting on Sheet L1.1 is shown to be shielded and cut-off. Cut sheets of exterior building lights were not provided. This prohibition should be memorialized in a condition.	H.2
	No spotlights on development perimeter.	No spotlights shown. This prohibition should be memorialized in a condition.	H.2
<b>H.4 Limit of Development</b>	a) Do not develop on the Northwest Upland.	Development has been consolidated and limited to the area around the existing farm and houses (approx. 13.8 acres). The Northwest Upland will be part of donation to Weston Forest and Trail (WFT).	None Needed
	b) Place a deed or use restriction or other to preserve the roughly 48 acres as forest and trails open to the public.	Decision contains conditions for transfer of land.	None Needed
	c) Professional to evaluate habitat (found no additional permits required).	Has been completed.	None Needed
<b>H.5 Parking</b>	a) Identify parking reserves for future additional parking if needed.	No areas located on Site Plans.	H.3
	b) Parking and vehicular circulation to be constructed following ITE standards.	Project has been reviewed by Civil Engineer, Transportation Consultant and Fire Dept.	None Needed
<b>H.6 Site Elevation</b>	a) Lower the site elevation of the built area by an average of ten feet (5-15' depending on existing topography).	Sheets C3.00 and C3.01 show Buildings A and B and center green at the 176'-178' range; the existing site is between 188' and 192'.	None Needed

	b) Build 12' high berm, thickly planted, between town houses and abutters to provide visual and noise buffer.	Sheet C3.01 shows berm. Sheet L1.0 shows plantings on berm.	None Needed
<b>H.7 Town House Siting</b>	Vary building orientation to better reflect residential neighborhood.	Town houses are aligned to road and curves in road layout.	None Needed
<b>H.8 Utilities</b>	Install all utilities underground.	Sheets C4.00 and C4.01 show utilities underground.	None Needed
<b>H.9 Recreational Amenities</b>	a) Provide and maintain pedestrian and bike connection to Rail Trail.	Existing gravel cart paths will provide connection on eastern side of property. Maintenance of path connection by applicant should be included in conditions.	H.4
	b) Place a deed or use restriction, or subdivide and deed property to the town, to preserve the roughly 48 acres as forest and trails open to the public.	ZBA Draft Decision contains conditions on transferring land.	None Needed
	c) Maintain trail connection on east side of property and provide access to trail on west side of property.	Site plans show the existing trail and connection on the east side of the property. The existing trail on the west side can be maintained with a connection at the townhome cluster turn around. Trails maintenance will need to be described as part of transfer of land.	H.4
<b>H.10 Final Grading</b>	Introduce vertical variation of grades as much as practicable to increase visual interest and break up scale of development.	Finish Floor Elevations of townhouses on western part of site range from 175' to 180.12' and vary within buildings. On the eastern portion of the site adjacent to the project green, they range from 167' to 179.5'	None Needed

H. Site Design Conditions

1. Entry sign shall be lit by downward illumination directed at the sign with no internal lighting and no up-lighting.

2. All exterior lighting shall be California Title 24 Dark-Sky compliant. No exterior spotlights, floodlights, or up-lights shall be allowed at the perimeter of the property (outside face of the building to the property line).

3. Prior to Certificate of Occupancy, the applicant shall provide an updated Site Plan showing possible reserve parking areas that can be built out at a future date should existing parking prove insufficient.

4. The applicant shall maintain the bike and pedestrian connections on the east and west sides of the property from the development through land to be donated to Weston Forest and Trail to Central Mass Rail Trail. No hardscape connection will be provided to avoid additional wetland impacts.

<b>I. Wastewater</b>			
	<b>Mitigation</b>	<b>Status</b> - as shown on plans dated May 4, 2020.	<b>Condition</b>
<b>I.1 Absorption Fields</b>	PB understands ZBA will hear initial opinion on size & safety from peer reviewer.	Civil Engineer has reviewed plans.	None Needed
<b>I.2 Generator</b>	Provide surrounding fence or enclosure to buffer sound.	Fence will be provided as well as plantings. Condition should require no more than 40db at any property line.	I.1
<b>I.3 Treatment Facility</b>	Building to be screened and designed to reduce visibility from Route 20.	Screening is proposed and the location is set back from Route 20. Limits should be placed on maintenance truck hours and idling.	I.2

**I. Wastewater Conditions**

1. Fencing, plantings and acoustical barriers shall be provided at the emergency generator such that the noise from it in typical or test operation is no greater than 40db at any property line.

2. Regular maintenance and/or upgrades of the wastewater facility shall be limited to Monday through Friday, 7:00 a.m. to 6:30 p.m. and on Saturdays from 7:00 a.m. to 5:00 p.m. Emergency repairs shall not be limited by this condition.

<b>J. Off Site Infrastructure</b>			<b>K.</b>
	<b>Mitigation</b>	<b>Status</b> - as shown on plans dated May 4, 2020.	<b>Condition</b>
<b>J.1 Water</b>	Remove the secondary water service under Elliston Road	Secondary water line is still shown on Sheet C4.01. DPW	None Needed

	from the plans if acceptable to DPW.	would need to accept removal of this line.	
<b>J.2 Boston Post Road Sidewalk</b>	Repair sidewalks along the property's frontage and make a financial contribution to the updating of sidewalks from the site to BPR bypass.	Plans show internal sidewalks meeting existing. The sidewalk connection is an important walkability piece and should be included in conditions.	J.1
<b>J.3 Elliston Road Emergency Access</b>	Remove the secondary emergency access on Elliston Road from the plans if approved by fire department.	Sheet C2.02 shows secondary access with fire gate as requested by Fire Department	None Needed

J. Off Site Infrastructure Conditions

1. Applicant shall repair and reconstruct sidewalk at its existing width and location from development site frontage to western intersection of Route 20 and Boston Post Road.

<b>K. Other Mitigations Through Regulation or Oversight</b>			
	<b>Mitigation</b>	<b>Status – As of August 19, 2020 meeting</b>	<b>Condition</b>
<b>K.1 Special Town Enforced</b>	a) Condition units to remain rental and qualifying for inclusion on SHI.	Condition is in draft ZBA decision	None Needed

	b) Collect traffic data on Love Lane cut-through traffic and prepare recommendations to Weston officials on methods to reduce/eliminate cut-through traffic.	Counters were placed as part of RSA and applicant has agreed to short term, lower cost mitigations.	None Needed
	c) Applicant contribution to Merriam Fund.	Applicant has declined to contribute; however, Planning Board maintains that this contribution is important in aiding the overall goal of providing affordable housing and housing stability.	K.1
	d) Applicant contribution to Rail Trail improvements.	Applicant has declined this contribution; however, as the project directly benefits from its adjacency to the rail trail, the one-time contribution is a reasonable expectation.	K.2
<b>K.2 DPW</b>	Review and approve water connection and distribution.	DPW will have to approve connection and has completed its capacity and infrastructure study. Should DPW determine additional capacity is needed as a result of this project, they would have to request such to the ZBA.	None Needed
<b>K.3 Conservation Commission</b>	Review and approve full stormwater plans, including all concerns regarding runoff to wetlands and Cherry Brook.	Conservation has reviewed plans and issued Order of Conditions including comments from Cambridge Water Department on maintaining water quality.	None Needed
<b>K.4 DHCD (40B)</b>	Enforce and monitor adherence to 40B accessibility, marketing, rental rates, tenancy, and other requirements.	DHCD will monitor as will RHSO on behalf of Town and report quarterly to the Affordable Housing	None Needed

	Enforce deed restriction requiring project to remain affordable and eligible for inclusion on SHI in perpetuity.	Committee and annually to the Select Board.	
<b>K.5 Mass DEP (Health)</b>	Review wastewater system for code and health compliance.	DEP Review will be required.	None Needed
	Comply with Massachusetts regulations on occupancy limits.	Applicant will monitor as part of standard practice.	None Needed
<b>K.6 Mass DOT</b>	Approval of access to Route 20.	Applicant will need to obtain approval from MassDOT and meet MassDOT standards for access.	None Needed
	Applicant will consider contribution to future Road Safety Audit (for Highland & Old Conn. Path) to inform future improvements, if merited.	RSA's have been completed and applicant has committed to short term improvements.	None Needed
<b>K.7 State Building Code</b>	All applicable State and Municipal Building Permits with State-required safety measures are required.	Building Permits will follow Comprehensive Permit.	None Needed

**K. Other Mitigation Conditions**

1. Applicant shall make a one-time contribution of \$10,000 to the Merriam Fund for use in rental assistance for Town Residents.
2. Applicant shall make a one-time contribution of \$10,000 to the Town to be used for improvements to the Mass Central Rail Trail. The town may place these funds under supervision of the Rail Trail Steering Committee or the Friends of the Mass Central Rail Trail non-profit.