

**TOWN OF EASTON
PLANNING AND ZONING BOARD**

APPLICATION #09-13

DECISION OF THE PLAN APPROVAL AUTHORITY: QUESET COMMONS

This Decision (the “Decision” or “Master Plan Approval”) is rendered by the Town of Easton Planning and Zoning Board (the “Board”) as the Plan Approval Authority (“PAA”) for the Quset Smart Growth Overlay District (“QSGOD”), pursuant to the legal authorities cited below, and relating to the mixed-use real estate development to be known as “Quset Commons” (the “Project”).

As hereinafter described, it is contemplated that the Project will be developed in a number of different phases or subphases (the “Phases”) over a period of years. Due to inherent uncertainties relating to market conditions and tenant-mix for the various retail, office and residential components of the Project, it is considered unrealistic and impractical for the Applicants to provide, or for the Board to approve, detailed plans for any particular Phase at this time. Notwithstanding the foregoing, the Applicants have presented extensive plans, data and supportive materials relating to the overall Project and its supportive infrastructure, all of which have been fully reviewed and commented on by the Board, its staff, professional peer review consultants, other town boards and officials, and the public, through the QSGOD public hearing process. As a result, various plans relating to the Project as a whole, as listed below and filed with the Board (collectively, the “Master Plan”), are now found to be both adequate and acceptable to the Board.

The Board therefore hereby renders this Master Plan Approval upon the terms and conditions set forth herein, subject, in particular, to the condition that the Applicant(s) apply for and obtain further Plan Approval(s) from the Board in the future, on a Phase-by-Phase basis (the “Phase Approvals”), prior to proceeding with construction of new buildings in any particular Phase. The Board believes that this Master Plan Approval will be of substantial benefit and assistance to the Board, the Applicants, and the Town of Easton, because it will allow the Project to proceed notwithstanding the above-described market uncertainties, in a controlled and orderly manner, pursuant to plans and general conditions deemed acceptable to the Board at this time. It will also provide the Applicants with the assurance of approved parameters for the Project, thus allowing for the investment and expenditure of the considerable time and monies necessary to proceed with the design, construction and marketing of future Phases.

Legal Authorities:

- Massachusetts General Laws, Chapter 40R (“Chapter 40R”)
- Easton Zoning Bylaw Section 7-17 (the “Bylaw”)
- Easton Plan Approval Authority Rules and Regulations, as approved and adopted September 10, 2008 (The “PAA Rules”)

Name and Address of Owner(s)/Applicant(s):

Queset Commons, LLC, 400 LLC,
Douglas A. King and Brian J. McLaughlin
c/o Douglas A. King Builders, Inc.
115 Main Street, Suite 1D
North Easton, MA 02356

Land Affected:

<u>Address</u>	<u>Tax Map and Lot #</u>	<u>Owner</u>
515 Washington Street	Map 28, Lot 28	Queset Commons, LLC
519 Washington Street	Map 28, Lot 43	Queset Commons, LLC
537 Washington Street	Map 33, Lot 5	Queset Commons, LLC
543 Washington Street	Map 33, Lot 7	Queset Commons, LLC
549 Washington Street	Map 33, Lot 21A	Douglas A. King and Brian J. McLaughlin
565 Washington Street	Map 33, Lot 106	400 LLC
11 Roosevelt Circle	Map 33, Lot 102	Queset Commons, LLC
Parcel Four-1R Sonya Maria Way	Map 32, Lot 23	Queset Commons, LLC

PLANS AND SCHEDULES SUBMITTED AND APPROVED

The plans and schedules listed below are those submitted with the PAA Application and revised through the PAA hearing process, along with supplemental plans requested during that process, or submitted to clarify questions raised by the Board. These plans and schedules collectively constitute the Master Plan hereby approved.

- “Cover/Title Sheet, Queset Commons, Easton, Massachusetts,” dated May, 2009, revised October, 2009;
- “Legend & Notes, Queset Commons, Easton, Massachusetts,” dated May 1, 2009, sheet KEY;
- “Existing Conditions Plan, Queset Commons, Easton, Massachusetts,” dated May 1, 2009, revised through October 8, 2009, sheet E-1;
- “Proposed Site Plan, Queset Commons, Easton, Massachusetts,” dated May 1, 2009, revised through July 20, 2009, sheets P-1 through P-5;
- “Proposed Grading and Drainage Plan, Queset Commons, Easton, Massachusetts,” dated May 1, 2009, revised through October 30, 2009, GD-1 through GD-13;
- “Proposed Utilities Plan, Queset Commons, Easton, Massachusetts,” dated May 1, 2009, revised through September 24, 2009, sheets U-1 through U-5;
- “Monitoring Wells, Borings and Test Pits Plan, Queset Commons, Easton, Massachusetts,” dated April 9, 2009, sheet M-1;

- “Erosion Control Plans, Queset Commons, Easton, Massachusetts,” dated May 1, 2009, revised through October 19, 2009, sheets EC-1 through EC-5;
- “Construction Details & Notes, Queset Commons, Easton, Massachusetts,” dated April 9, 2009, revised through October 30, 2009, sheets D-1 through D-7;
- “Developable Land Plan, Queset Commons, Easton, Massachusetts,” dated April 5, 2007, revised October 21, 2009, attachment 3-1 of 40R application set;
- “Phasing Plan, Queset Commons, Easton, Massachusetts,” dated May 13, 2009, revised through October 16, 2009, sheet PH-0;
- “Proposed Signage Plan, Queset Commons, Easton, Massachusetts,” dated May 13, 2009, revised through October 21, 2009, sheet S-1;
- “Building Entrances Plan, Queset Commons, Easton, Massachusetts,” dated July 20, 2009, revised through August 21, 2009, sheet BE-1;
- “Snow Storage Areas Plan, Queset Commons, Easton, Massachusetts,” dated July 24, 2009, revised through September 17, 2009, sheet SS-1;
- “Snow Accumulation Areas Plan, Queset Commons, Easton, Massachusetts,” dated July 24, 2009, revised through September 17, 2009, sheet SS-2;
- “Proposed Landscaping Plan, Queset Commons, Easton, Massachusetts,” dated August 18, 2009, sheet LP-1;
- “Parking Allocation Plan, Queset, Commons, Easton, Massachusetts,” dated August 18, 2009, sheet PA-1;
- “Pedestrian Pathway Plan, Queset Commons, Easton, Massachusetts,” dated August 18, 2009, sheet PP-1;
- “Discontinuance Plan of Roosevelt Circle, Queset Commons, Easton, Massachusetts,” dated September 10, 2009;
- “Bridge Crossing Plan & Profile, Queset Commons, Easton, Massachusetts,” dated May 1, 2009, revised through October 30, 2009, sheets BC-1 and BC-2;
- Summary of Queset Commons Development and Construction Phasing (Table 2-3), revised 10/20/09 (the “Phasing Summary”); and
- Mitigation Phasing Schedule, revised 10/19/09 (the “Mitigation Phasing Schedule”).

OTHER MATERIALS SUBMITTED BY APPLICANTS

In addition to their Application and plans, the Applicants also submitted various other reports and materials in support of their Application, and in response to inquiries raised by the Board and others, including the following:

- Cover letter submitted by Norfolk Ram Engineering with Application and initial plans and materials, dated May 15, 2008.

- Draft Environmental Impact Report (“DEIR”) for the Project, including the Applicants’ proposed Transportation Demand Management Plan (“TDM Plan”).
- Letter re: Queset Commons dated May 26, 2009, with attachments.
- Memoranda of Mark S. Bartlett, P.E. of Norfolk Ram Engineering dated July 20, 2009, August 20, 2009 and August 21, 2009.
- Queset Commons Smart Growth Overlay District Marketing and Outreach Plan, Lottery Plan.
- Letter from McMahon Transportation Engineers and Planners dated July 16, 2009.
- Copy of letter from McMahon Transportation Engineers and Planners to Sam Schofield of Douglas A. King Builders, Inc. dated July 16, 2009.
- Parking calculations sheet, revised through August 21, 2009.
- Norfolk Ram Engineering Memorandum of September 21, 2009, responding to Easton Land Use Agent Memorandum of September 8, 2009.
- Tables 1 and 2 – Buffer Zone Impacts for Project and Bridge Crossing.
- Snow Storage Management Narrative and Calculations dated September 11, 2009.
- Construction Sequencing of Phasing Plan (narrative consisting of 2 pages), dated September 18, 2009.
- Bridge Construction Sequencing Plan (narrative consisting of 4 pages), dated September 21, 2009.

PROCEDURAL HISTORY

The Applicants have filed a complete application, including sufficient copies of the application form, plans, filing fee, and any other necessary materials and payments (collectively, the “Application”), with the Town Clerk and Department of Planning & Community Development Office. The Application was dated May 15, 2009 and initially filed May 20, 2009.

Upon receipt of the Application, the PAA provided copies of the Application materials to the Board of Selectmen, Zoning Board of Appeals, Board of Health, Fair and Affordable Housing Partnership, Conservation Commission, Fire Department, Police Department, Building Inspector, Department of Public Works, and other municipal officers, agencies or boards designated by the PAA for comment, as contemplated by the Bylaw and Section 5.9.1 of the PAA Rules. Certain of such boards, agencies and officers provided written comments within 60 days thereafter, as per Section 5.9.2 of the PAA Rules.

In conformity with Chapter 40R and Bylaw Section 7-17, the Board caused Notice of the scheduled public hearing to be advertised in a newspaper having a general circulation in the Town of Easton, namely, “The Brockton Enterprise” in its July 3, 2009 and July 10, 2009 editions. Notice was also duly posted at Easton Town Hall at least fourteen (14) days prior to the opening of the hearing, and also sent to the Applicant and all “parties in interest,” all as per Section 6.1 of the PAA Rules and as otherwise required by law. The said hearing was opened on June 17, 2009 and closed on October 26, 2009. The public hearing proceedings were held at the Olmstead-Richardson School Cafeteria and at Easton Town Hall, Mary Connelly Meeting Room, second floor, 136 Elm Street, North Easton, Massachusetts.

Members of the Board present at the public hearing and qualified to act include the following: Christine M. Santoro (Chair), Colin W. Gillis, Walter H. Johnson, Gregory Strange and John Duggan.

At commencement of the scheduled hearing, Colin Gillis read the Notice of Public Hearing, along with a synopsis of the subject Application. In addition, the following correspondence was incorporated by reference into the record:

1. Memoranda from Alice Savage, Acting Director of the Town of Easton Department of Planning and Community, dated June 2, 2009, June 10, 2009, June 22, 2009, July 28, 2009 and August 27, 2009.
2. Letter from Old Colony Planning Council ("OCPC") re: Queset Commons ENF, dated May 22, 2009.
3. Letter from WalkBoston re: Queset Commons ENF, dated May 22, 2009.
4. Peer Review Letter Report on stormwater management system from David White of Woodard & Curran, dated July 21, 2009.
5. Peer Review Report on traffic-related matters submitted by BETA Group, dated July 15, 2009.

The Applicants, in their Application, seek approval by the Board to develop a portion of their developable land located within the Queset Smart Growth Overlay District as per the Phasing Summary, all as more particularly shown on the Master Plan.

In connection with development of the Project, the Applicants, through their affiliated company, Douglas A. King Builders, Inc., entered into a Development Agreement on or about May 5, 2008 (the "Development Agreement") with the Town of Easton, acting by and through its Board of Selectmen. The Development Agreement contemplates not only the development of the Project subject to certain standards, but also certain benefits to be provided by the Applicants to the Town of Easton. A copy of the Development Agreement is attached hereto as Schedule A. The Development Agreement is subject to amendment or modification in the future.

Throughout the course of the public hearing(s), the Applicants, through their representatives and professional consultants, responded to various comments and concerns, revising their plans, as appropriate. Upon full presentation thereof, the public hearing was closed.

The Applicants have also requested that the Board, as PAA, waive certain dimensional and other requirements of the By-Law, including certain Design Standards, in the interests of design flexibility and overall project quality, if the Board finds consistency of such variation with the overall purpose and objectives of the Bylaw, or if it finds that such waiver(s) will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under the QSGOD. The waivers requested are as enumerated and described hereinafter.

FINDINGS

On the basis of the review of the materials submitted and the input from Board staff, peer review consultants, and Town boards and officials, the Board finds as follows:

1. The Applicants have submitted the information and fees required by the QSGOD Bylaw and the PAA Rules necessary for an adequate and timely review of the design of the Project and potential Project impacts (subject to the need to provide further information to enable the issuance of the further approvals for future Phases as set forth below).
2. The Project, as depicted in the Master Plan and as described in the Phasing Summary, meets the conditions and requirements set forth in the QSGOD Bylaw and the PAA Rules and its Design Standards, subject to the conditions and limitations hereinafter set forth, or appropriate waivers have been granted therefrom.
3. The Master Plan, and the Project as depicted therein, will be complementary to nearby buildings and structures.
4. The Project will provide for high-density quality development consistent with the character of building types, streetscapes, and other community features traditionally found in densely settled areas of the Town of Easton or in the region of the Town.
5. The Project, as depicted in the Master Plan, is consistent with the Development Agreement.

APPROVAL, WAIVERS, LIMITATIONS AND CONDITIONS

1. Approval

The Board, as PAA for the QSGOD, hereby approves the overall Master Plan for the Project as described and depicted in the various plans listed above, as well as in the Phasing Summary attached hereto as Schedule B and in the Mitigation Phasing Schedule attached hereto as Exhibit C, subject to the limitations and conditions hereinafter set forth. Notwithstanding the foregoing, and as set forth below, construction of new buildings in any of the Phases shall not commence until detailed plans have been applied for and been issued a Phase Approval in the future. Applications for future Phase Approvals shall be deemed "Major Changes" under the Bylaw, and hence shall be processed as new applications for Plan Approval by the Board, as per the Bylaw and the PAA Rules.

Subject to the foregoing, the Project shall be developed in various Phases, as described and summarized in the Phasing Summary, which is attached hereto as Schedule B and incorporated herein by reference. Project mitigation measures shall be carried out by the Applicants as per the Mitigation Phasing Schedule attached hereto as Exhibit C, which is also incorporated herein by reference. The Applicants may, however, develop the Project and its various Phases in different

order, or in “sub-phases,” without being deemed to be noncompliance with this Master Plan Approval, provided such change in order is approved by the Board as part of its Phase Approval.

Proposed changes to the Master Plan, as hereby approved, may be requested by the Applicants and shall then be duly considered by the Board as follows, depending on the nature of the change(s) proposed:

- As a “Minor Change” under Section 7-17-P)1 of the Bylaw; or
- As a “Major Change” under Section 7-17-P)2 of the Bylaw; or
- As part of a future Phase Approval.

Any Phase Approval, upon request of the Applicants and if approved by the Board, may also modify the Master Plan hereby approved.

With respect to legal structure(s) of the Project and its Phases, it may be developed in any lawful manner not inconsistent with the Bylaw, the PAA Rules, the Development Agreement, this Master Plan Approval, and any subsequent Phase Approval. Such legal structure(s) may include, without limitation, any one or more of the following: one or more condominium associations; leases and/or ground leases; and/or the division or reconfiguration of the Property into new lots of land, whether pursuant to G.L. Chapter 41, Section 81P (so-called “Approval-Not-Required” or “Form A” Plans endorsed by the Board), Definitive Subdivision Plan Approval by the Board, or both. If Definitive Subdivision Plan Approval is sought by the Applicants in order to establish new lots of land, then notwithstanding any contrary or inconsistent provisions or requirements set forth in the Board’s Subdivision Rules and Regulations, the Board will act in a manner consistent with this Master Plan Approval and any Phase Approval(s), including (as necessary, and to the extent allowed by law) the granting of Waivers from such Subdivision Rules and Regulations in order to maintain such consistency.

The Affordable Housing requirements of Section 7-17-D of the Bylaw must be satisfied at all times, pursuant to Affordable Housing Restriction(s) approved in advance by the Board and the Massachusetts Department of Housing and Community Development (“DHCD”), and duly recorded at the appropriate Registry of Deeds.

2. Waivers

The Board hereby waives specific dimensional and other standards otherwise applicable to the Project, finding that such Waivers will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under Smart Growth Zoning, and is consistent with the Design Standards, while also encouraging commercial development in the Town. The Waivers hereby allowed are as follows:

- (a) Waiver of any and all aspects of the Bylaw requiring the submission of plans and other information and materials inconsistent with the concept of Master Plan Approval followed in the future with Phase Approvals. The plans and other information therefore waived as part of this Master Plan Approval are listed in Limitation 3(b) below, but must be submitted in the future as to each particular Phase as part of the applications for Phase Approvals.

- (b) Waiver of the requirements of the Bylaw to permit the construction of up to 40,000 square feet of commercial space in QSGOD Subzone C, and a total of up to 116,000 square feet of commercial space in the overall Project. Accordingly, “40,000 sq. ft.” shall be substituted for “30,000 sq. ft.” in Bylaw Section 7-17-F)3.
- (c) Waiver of the requirements of Bylaw Section 7-17-N)1 and the Smart Growth Overlay District Design Standards VII (D) (5), to permit construction of certain streets to a width of 24 feet, rather than 20 feet.

3. Limitations

As stated above, this Master Plan Approval relates only to certain aspects and plans of the overall Project, and not to details of specific Phases and plans relating thereto which have not yet been submitted. Accordingly, the limitations of this Master Plan Approval are as follows:

- (a) Aspects of Master Plan Approved at This Time:
 - Overall site layout of the Quset Commons Project, as to the proposed number and locations of building footprints, and approximate building sizes and shapes (but not including final building architecture).
 - Vehicular ways, site traffic and pedestrian circulation.
 - Traffic signs.
 - Parking areas.
 - Utilities (water, sewer/wastewater, drain, electric, gas, cable, telephone).
 - Bridge crossing, allowing access to the westerly portion of the Project.
 - Site work proposed within wetlands buffer zones (subject to final Order of Conditions from the Conservation Commission).
- (b) Aspects of Project Not Approved at This Time, but Rather to be the Subject of Future Phase Approval Applications:
 - Architectural plans for individual buildings.
 - Building signs, canopies, and/or other building accessories
 - Detailed landscaping plans, and selection of specific plant species.
 - Sidewalk and streetscape details at each building (including details of landscape zones and planters located between street/parking and buildings, locations of sidewalk amenities, such as park benches and/or resting areas, trash receptacles, and exterior lighting).
 - Final Transportation Demand Management Plan.
 - Site grading, drainage and stormwater management.
 - QSGOD Bylaw Section D requirements that may depend upon final building designs in order to demonstrate Bylaw compliance (e.g., specific location and distribution of Affordable Units within buildings, percentage of affordable bedrooms, location of the 10% of Units that are to be handicapped-accessible, etc.).

- QSGOD Bylaw Section D.1: marketing plan.
- QSGOD Bylaw Section D.5: selection of Affordable Housing Monitoring Agent.
- To the extent not set forth above, the following information and/or plans relating to each Phase: construction and landscaping details; the location of any proposed street furniture; grading details; clearing of vegetation; erosion controls; locations of any temporary construction trailers; locations of storage of construction materials, fill and debris; and the number and location of Affordable Units in each Phase. In addition, the Board may additionally request information for each Phase regarding the following: proposed Mitigation as described in the Development Agreement, as it may be amended from time to time; further traffic analysis, as contemplated by Section 4.4 of the Development Agreement; documentation supporting the width of the landscaping areas to support tree growth; detailed parking calculations; shared parking areas; distance from the parking areas to internal roadways; proposed clearing and grading; and any other information deemed reasonably necessary by the Board and as contemplated by the Bylaw and the PAA Rules and Design Standards.
- Possible other traffic mitigation measures, as contemplated by Section D.2 of the Development Agreement.

4. Conditions

This Master Plan Approval is subject to the following Conditions:

- (a) No Building Permit for any new building shall be granted unless and until the Phase Approval has been issued by the Board with respect thereto, which Phase Approval must include a Finding of compliance with all aspects of the Bylaw, as to that Phase and the overall Project.
- (b) The Applicants shall at all times remain in material compliance with the Development Agreement, as it may be amended or modified from time to time.
- (c) If and when the Board of Selectmen so approve, Roosevelt Circle (a public way) is to be discontinued as a public way and become a private way within the Project, subject to completion and satisfaction of any legal requirements relating thereto.
- (d) All private internal roadways serving the Project are to remain private.
- (e) All internal roadways, as well as the Project's wastewater treatment plant and any and all common services and facilities are to be owned and/or maintained by one or more condominium association(s), homeowners' association(s) or property owners' association(s).

- (f) The Board shall be provided with advance written notice of any meetings with the Massachusetts Highway Department to discuss traffic mitigation measures and improvements, and may send a representative to any such meetings.
- (g) The wastewater treatment plant shall be designed, to the satisfaction of the Board, to be in keeping with the character of Easton historic architecture, such as its H.H. Richardson buildings.

Based upon the above-cited Findings and Waivers, and subject to the Limitations and Conditions set forth above, the Master Plan for Queset Common is hereby APPROVED.

TOWN OF EASTON PLANNING AND ZONING BOARD

Christine M. Santoro

Colin W. Gillis

Gregory Strange

Peter Deschene

Date: November 9, 2009

Schedule A: Development Agreement, with Exhibits

Schedule B: Phasing Summary

Schedule C: Mitigation Phasing Schedule