

Welltower-Town of Brookline Terms Summary

Prepared for Select Board Meeting

February 11, 2020

The Select Board is pleased to announce that after extensive and productive negotiations between the Welltower project team and the Town's Newbury Campus Zoning Committee (including its Negotiating and Design Subcommittees and working groups), the following has been agreed to in principle between the Town and the Welltower ownership entities (the "Developer"). All of these matters are to be incorporated into a final Memorandum of Agreement ("MOA") between the Town (acting by and through the Select Board) and Welltower. The MOA will be the binding document between the Town and the Developer, and will contain further relevant details with regard to the matters summarized below. Please note that in the case of any conflict between the terms of the summary below and the terms of the MOA, the terms of the MOA will control.

I. The Senior Housing Project on the East Campus

1. The design of the project (the "Project") will be substantially as shown on the site plan most recently presented to the Newbury Zoning Committee (NZC) on February 5, 2020. The Project will consist of up to 160 units including independent living, assisted living and memory care units with related parking (targeting 98 spaces) and other improvements. The maximum Floor Area Ratio for the Project will be 1.15 on the approximately 3.87-acre site. The Project will include increased open and green space, attractive landscaping, and first rate design and aesthetic elements.
2. The zoning to enable the Project to proceed will be presented to the 2020 Annual Town Meeting in May, including a map amendment to the Zoning Map to create the "Fisher Hill Special Overlay District" and accompanying text amendments to the Zoning By-Law.
3. The Developer will enter into a Tax Certainty Agreement for a term of 95 years to ensure that that the East Parcel continues to pay real estate taxes or the equivalent thereof.
4. The Developer will make improvements to the public realm including granting a public easement for the preservation and maintenance of six mature shade trees along Fisher Avenue which the Developer values at approximately \$276,000.
5. The Project will include substantial commitments to sustainable design and operations as outlined in the presentation to the NZC on February 5, 2020. This will include a commitment not to use natural gas or fuel oil within the Project except as necessary for the commercial kitchen, emergency generators, swimming

pool and gas fireplaces. The Project will be constructed in a manner so as to be LEED-NCv4 Gold Certifiable.

6. The Project will include access for neighborhood meetings and events held by various non-profits of the Town.
7. The Project will preserve and maintain the Mitton House as shown on the site plan.
8. The Project will provide much-needed senior housing options in the Town.
9. The Project will provide substantial fiscal benefits to the Town. The proposed senior living community use will be taxed at a residential rate with associated personal property taxed at the commercial rate. In similar overlay zoning proposals, the developer and Town have agreed on a range for what the taxes to the Town upon stabilization will be. Determining a future assessed value for this type of asset is complicated by few if any comparable properties and this being an operating business with business value not subject to real estate tax. The Developer believes the taxes upon stabilization will be about \$800,000 (assuming the current tax rate and no overrides). The Town's tax consultant believes this may be a conservative estimate based on current market conditions. Welltower has agreed to have the personal property associated with the Project held in an entity taxable to the Town.
10. The Project is projected to have minimal traffic impacts and low demand on emergency services.

II. West Parcel

1. Upon passage and AG approval of the warrant articles allowing the senior housing project on the East Campus to proceed, the Town will have the right to acquire the approximately 3.13-acre "West Parcel" consisting of 150 Fisher Avenue, 124 Fisher Avenue, 146 Hyslop Road and 110 Fisher Avenue for \$14,800,000 (the "West Parcel Town Price"). This purchase price is approximately equal to the assessed value of the property, but represents a discount of approximately 20% below the appraised fair market value of the site of \$18.55 million under a recent appraisal conducted by Colliers.
2. No later than May 8, 2020 there will be a vote of all eligible Town voters to authorize a debt exclusion for the purpose of acquiring the West Parcel.
3. Warrant articles will be proposed by the Town at the 2020 Annual Town Meeting for a bond authorization and for the acquisition of the West Parcel contingent on approval of the debt exclusion by the voters.
4. An accompanying Town Meeting warrant article will be proposed by the Town for a zoning amendment to allow the Town to use the existing improvements on the West Parcel for certain interim municipal uses. (Note that the permanent use

of the West Parcel by the Town will be the subject of a separate process that will occur after the Town completes its acquisition).

5. Assuming the Town has appropriated the funds necessary for the West Parcel acquisition and the West Parcel zoning amendment described in the prior paragraph passes, the Town and Welltower will close on the property within 30 days of the Attorney General's approval of the East Parcel Zoning Article.
6. If the Town elects not to acquire the West Parcel, then upon sale of the West Parcel to a third party, if the purchase price exceeds an amount equal to the West Parcel Town Price of \$14,800,000 plus Welltower's reasonable transaction costs, the Town will get a substantial portion of this excess pursuant to an agreed upon formula (see chart attached as Exhibit 1).
7. Welltower will also be required in any purchase and sale agreement with a potentially property tax exempt third party for the West Parcel to make the potential buyer aware of the Town's expectations in terms of its PILOT policy, and requiring that the buyer meet with the Town Administrator relative to the issue of PILOT payments prior to closing on its purchase.

III. Affordable Housing

1. The Housing Advisory Board (HAB) voted on January 28, 2020 to advise the Select Board on its preference for satisfying the Town's affordable housing requirement via the development of 18 affordable condominium units at 125 Holland Road, acquired by Welltower from Newbury College; the HAB also voted that an acceptable alternative would be a \$6.525 million cash contribution to the Town's Affordable Housing Trust, earmarked for the Brookline Housing Authority to redevelop its Col. Floyd senior housing property, demolishing 60 units and building at least 100 new ones, which nets at least 40 new additional senior housing units.
2. The first option (the "125 Holland Option") is the redevelopment of the 0.87 acre property located at 125 Holland Road for 18 units of for-sale affordable housing (the "125 Holland Project"). The Developer will use best efforts to enter into a contractual arrangement as soon as is feasible with a third party with the requisite experience and financial ability to complete the 125 Holland Project. The Developer will transfer 125 Holland Road (with an assessed value of \$3.027 million) for nominal consideration to the third party developer subject to an affordability restriction designed to survive foreclosure and will contribute a further \$3.123 million to the project.
3. Welltower, Inc., will also provide a financial guaranty (the "Backstop") of up to an additional \$650,000 for the benefit of the Town to help ensure completion of the 125 Holland Project should the funds available for completion be deemed insufficient after recourse to the available sources of funding from the

construction lender, the third party developer and its principals. To the extent Welltower, Inc. elects not to contribute further funds to help ensure completion of the project under those circumstances, Welltower will be required to pay into the Town's Affordable Housing Trust any funds not previously advanced by Welltower under its Backstop. If (1) Welltower has not advanced the full amount of the Backstop prior to December 31, 2023 or, if the term of any applicable construction loan extends beyond that date, the end of the term of said construction loan and (2) the 125 Holland Road project has not been completed, Welltower will be required to pay into the Town's Affordable Housing Trust any funds not previously advanced, unless it has already done so.

4. The 125 Holland Project will require a rezoning of 125 Holland Road, and a warrant article to effectuate that rezoning will be submitted by the Town for consideration at the 2020 Annual Town Meeting (the "125 Holland Zoning").
5. Should the required 2/3 vote not be obtained for the 125 Holland Zoning, then the Developer will make a cash contribution to the Town's Affordable Housing Trust in the amount of \$6.525 million (the "Cash Option"). If the Cash Option is exercised, 1/2 of the amount shall be payable thirty days after the issuance of the first building permit for buildings in the Project, and 1/2 shall be paid prior to issuance of the final certificate of occupancy for the Project.
6. Further, if the third party developer under the 125 Holland Option is unable to close on a construction loan by December 31, 2021, the Cash Option will automatically come into effect.

IV. Community Benefits

Community benefits proposed by the Developer include the following:

1. Partner with the Council on Aging and Brookline CAN on various programs for Seniors.
2. Provide community space for meetings of local neighborhood associations of other Brookline non-profits up to once a month or 12x per year.
3. Balfour, or other entity operating the facility once constructed, agrees to hold a job fair at the Brookline Teen Center or other public venue and, to the extent permitted by law, will give qualified Brookline residents preference for jobs at the facility.
4. Maintain the Mitton House and the addition.
5. Provide a Public Easement Area to create a green buffer on Fisher Ave.
6. Maintain at Developer's cost mature trees on Fisher Ave (Developer estimates the value of trees at \$276K)

7. Substantial additional tax revenue to the Town for a use that has minimal impact on Town infrastructure and services.
8. Tax Certainty for the East Parcel
9. Sale of West Parcel to the Town or possible share in proceeds of sale if property sells above the \$14.8 million strike price.
10. Contribution of land and equity to third-party developer which will enable creation of 18 new affordable units at 125 Holland Road or provision of \$6.525M in cash to the Housing Trust potentially for use by Brookline Housing Authority.
11. Provide landscape buffer to abutters on the South side entry.
12. Remove existing curb cut on Holland to reduce traffic
13. Sustainability to exceed State and Local Requirements:

Sustainable Design Elements

- a. Goal of LEED-NCv4 Gold Certifiable
- b. Adopt/Comply with Town No Fossil Fuels Bylaw for the entire Project except commercial kitchen, emergency generator, gas fireplaces and swimming pool (bylaw pending at AG)
- c. Implement Site Sustainable Measures which will include the following.
 - a) Consider the use of permeable pavements such as permeable asphalt for driveways and parking areas, and permeable concrete pavers for the vehicular entry plaza, Holland Rd. Overlook, and other site features where feasible.
 - b) Stormwater control measures will optimize on-site filtration using rain gardens and bioswales.
 - c) Install native and drought tolerant plants. Incorporate bird friendly and pollinator plants.
 - d) Electric vehicles for on-site fleet of passenger vehicles for transportation of Project residents. Electric vehicle charging stations will be provided in excess of Town requirements for Project residents and guests.
 - e) Bicycle parking will be provided on site to accommodate residents, staff, and visitors. Shower and dressing room access will be provided.
 - f) Full cut-off exterior light fixtures with LED lighting. Use of pole mounted fixtures limited to surface parking areas.
 - g) Visual and physical access to vegetation.
 - h) Spaces designed to support social connection.
- d. Reduce Energy Demand: Implement Passive House strategies to reduce energy use.
- e. Optimize Energy Efficiency of Building Systems
 - a) Provide water-efficient plumbing fixtures
 - b) Perform Building Commissioning

- c) Training for Operations and Maintenance
- f. Healthy Building: WELL strategies to provide users with a healthy building.
 - a) Optimize daylighting and views
 - b) Specify healthy building materials
 - c) Provide healthy indoor air quality measures
- g. Harvest Site Energy: Optimize the building for solar renewable energy measures and including consideration of photovoltaic and solar thermal where feasible.

Sale of West Parcel - Profit Sharing Framework						
Assume Sale Price of \$18,550,000*** (Colliers appraised value) and assume 2% cost of sale						DRAFT
Assume Waterfall of Proceeds Sharing Above \$14,800,000 <i>net proceeds</i>						
Total Sale Price	Incremental Sale Proceeds	Incremental Welltower Proceeds		Incremental Town Proceeds		
		\$	%	\$	%	
\$ 14,800,000	\$ 14,800,000	\$ 14,800,000	100%	\$ -	0%	
\$ 15,800,000	\$ 1,000,000	\$ 371,000*	0%	\$ 629,000	100%**	
\$ 16,300,000	\$ 500,000	\$ 25,000	5%	\$ 475,000	95%	
\$ 16,800,000	\$ 500,000	\$ 50,000	10%	\$ 450,000	90%	
\$ 17,300,000	\$ 500,000	\$ 75,000	15%	\$ 425,000	85%	
\$ 17,800,000	\$ 500,000	\$ 250,000	50%	\$ 250,000	50%	
\$ 18,550,000	\$ 750,000	\$ 562,500	75%	\$ 187,500	25%	
TOTAL:	\$ 18,550,000	\$ 16,133,500		\$ 2,416,500		

*NOTE 1: For the purpose of calculating cost of sale for this Exhibit, we assume a total sale price of \$18.55M is achieved. This figure is used for illustrative purposes only. Costs of sale will include all out of pocket costs incurred by Welltower in connection with the sale including, without limitation, brokerage commissions, all state and local transfer taxes, and attorneys' and consultants' fees and expenses that are customarily incurred for similar commercial transactions.

**NOTE 2: We assume the Town receives 100% of the initial \$1M in sale proceeds AFTER Welltower's cost of sale

***NOTE 3: Should Welltower achieve a sale price above \$18.55M the Town would propose to share in 10% of net proceeds