

MEMORANDUM

FEBRUARY 14, 2013

**TO:** BOSTON REDEVELOPMENT AUTHORITY AND  
PETER MEADE, DIRECTOR

**FROM:** HEATHER CAMPISANO, DEPUTY DIRECTOR FOR DEVELOPMENT  
REVIEW  
DAVID CARLSON, SENIOR ARCHITECT  
GEOFFREY LEWIS, SENIOR PROJECT MANAGER

**SUBJECT:** NASHUA STREET RESIDENCES PROJECT LOCATED ON PARCEL 2B  
OF THE NORTH STATION URBAN RENEWAL AREA AND IN THE  
NEW BOSTON GARDEN DEVELOPMENT AREA OF THE NORTH  
STATION ECONOMIC DEVELOPMENT AREA

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**SUMMARY:** This Memorandum requests that the Boston Redevelopment Authority (“Authority”), in connection with the Nashua Street Residences Project in the North Station Urban Renewal Area (“Nashua Street Residences Project” or the “Project”), as further described hereinafter, authorize the Director to (1) approve a minor modification and adopt a resolution modifying the North Station Urban Renewal Plan (the “Plan”) to allow for the proposed project in the North Station Urban Renewal Area (“North Station URA”); (2) issue a Determination waiving the requirement of further review pursuant to Article 80, Section 80A-6.2 of the Boston Zoning Code (the “Code”) which finds that the Notice of Project Change for the Nashua Street Residences Project does not significantly increase the impacts of the Project and that no additional review is required; (3) issue a Certification of Compliance under Section 80B-6 upon successful completion of the Article 80 review process; (4) execute and deliver a Cooperation Agreement, an Affordable Housing Agreement and Restriction, and, or an Affordable Housing Contribution Agreement, a Boston Residents Construction Employment Plan, documents confirming the termination of the Chapter 121A status for the property site; and any and all other agreements and documents that the Director deems appropriate and necessary in connection with the development of the Nashua Street Residences Project; and (5) authorize the Director to execute a new easement or an amendment to existing easement in connection with an Authority owned parcel over Lowell Way, to grant pedestrian access and egress to and from Causeway Street to and from the Project.

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## **PROJECT DESCRIPTION**

The Project area for the Nashua Street Residences Project is comprised of air rights over a Massachusetts Bay Transportation Authority (“MBTA”) owned garage, which is ground leased to the Boston Garden Development Corporation or an affiliate, within an approximately 35,210 square foot parcel of land (“Project Site”) adjacent to the TD Garden/North Station. The Project Site is bounded by Nashua Street to the west, Partners Health Care property to the north, the TD Garden/North Station Commuter Rail to the east, and the Thomas P. O’Neill Federal Building to the south. The Project Site is Parcel 2B of the North Station Urban Renewal Plan (the “Plan”), adopted by the Authority on May 22, 1980 and approved by the Boston City Council on July 16, 1980, as amended (the “Plan”).

## **PROJECT HISTORY**

The development of the Proposed Project was originally conceived in the 1980’s as an integral component of the public and private development efforts for the North Station/Boston Garden area of the City. In 1989, a Memorandum of Agreement was entered into among the City, the Authority and the New Boston Garden Development Corporation establishing the terms and conditions for a development program to construct a new area on city-owned air rights behind the old Boston Garden and to develop over two million square feet on the site of the then-existing arena and adjacent parcels. In 1995, the TD Garden (then known as the Fleet Center) opened as the first commercial component of the plan, built on air rights over the North Station commuter rail station and the MBTA’s underground garage. TD Garden was developed under M.G.L. Chapter 121A, which project area included air rights parcels for the second phase of the North Station/Boston Garden development. On October 22, 1992, the Authority voted to adopt a Report and Decision on the Garden Corporation Chapter 121A Project. The vote was approved by the Mayor and filed with the City Clerk on October 28, 1992. The Chapter 121A status for the Garden Corporation Chapter 121A Project has since terminated as of October 28, 2007.

The Nashua Street Residences Project is the second major phase of the New Boston Garden/North Station Development. In March of 2004, the Boston Garden Development Corporation (“BGDC”) filed a Letter of Intent in accordance with the policy of the Authority regarding Provision of Mitigation by Development Projects in Boston. An Impact Advisory Group (“Original IAG”) consisting of 12 members of the public was formed in accordance with the Authority’s policy regarding Provision of Mitigation by Development Projects in Boston.

On April 2, 2004, BGDC filed a Project Notification Form (“PNF”) for the Nashua Street Residences. Following publication of public notice, a public meeting and a Scoping Session, the Authority issued a Scoping Determination on July 30, 2004 in response to

the PNF. BGDC filed a Draft Project Impact Report on July 30, 2004. Following publication of public notice, a public meeting, a meeting with City Agencies, approval by the Boston Civic Design Commission and meetings with the Original IAG, on April 7, 2005 the Authority authorized the Director to issue a Preliminary Adequacy Determination (“PAD”) under Section 80B-5.4(c)(iv) of the Code for the Nashua Street Residences consisting of a residential tower containing approximately 363 residential units, consisting of approximately 121 rental units and 242 condominium homeownership units, with above-grade parking for approximately 244 parking spaces. The Preliminary Adequacy Determination was issued on May 5, 2005. On April 7, 2005, the Authority further adopted a Minor Modification to the Plan to subdivide Parcel 2 in order to create Parcel 2B and 2C, and to establish the permitted uses, maximum height, maximum floor area ratio, vehicular access and other requirements for Parcel 2B.

Thereafter, on May 25, 2005, the BGDC filed a Notice of Project Change (“First NPC”) requesting approval to convert approximately 121 rental units within the Project to condominium homeownership units; so that the Project would consist entirely of condominium homeownership units, and to increase the parking spaces from approximately 244 to approximately 270. Pursuant to Section 80A-6.2 of the Code, on August 10, 2006 the Authority Board authorized the Director to issue a Determination waiving the requirement of further review of the Project in connection with the First NPC.

### **PROPOSED PROJECT**

AvalonBay Communities, Inc. (the “Proponent”) has entered in to a purchase and sale agreement to purchase the Project Site from an affiliate of BGDC.

On November 16, 2012, the Proponent filed a Notice of Project Change (the “Second NPC”) with the Authority, which would allow for the following changes to the Project: (1) increase the number of residential dwelling units by 140 units, from 363 condominium homeownership units to 503 units, which may be either residential rental apartments or condominium homeownership units (it is anticipated that the Project will be developed initially as residential rental units); (2) increase the gross floor area of the Project to accommodate an additional floor within the previously-approved height; and (3) decrease the parking spaces from approximately 270 parking spaces to approximately 219 parking spaces.

### **DEVELOPMENT TEAM**

The development team consists of AvalonBay Communities, Inc., Scott W. Dale, Senior Vice President of Development, as the Proponent; CBT Architects, Inc., Alfred Wojciechowski and Philip Casey, as project architects; Harry R. Collings of Exclusive

Real Estate as permitting consultant; and Goulston & Storrs, P.C., Marilyn L. Sticklor, serving as legal counsel.

### **ARTICLE 80 REVIEW**

The Proponent filed an updated Letter of Intent on August 24, 2012 in accordance with the policy of the Authority regarding Provision of Mitigation by Development Projects in Boston. An Impact Advisory Group ("IAG") consisting of 12 members of the public, many of whom were members of the Original IAG, was formed in accordance with the Authority's policy regarding Provision of Mitigation by Development Projects in Boston.

Notice of the Second NPC was sent to the City's public agencies, and copies were provided to the IAG. A meeting with the City's public agencies and the IAG was held on November 26, 2012 at which the Project was reviewed and discussed. On December 6, 2012, the Authority conducted a public meeting at the office of CBT Architects on Canal Street, to which members of the IAG were invited, to present and discuss the Project. A public comment period was established with a closing date of December 31, 2012.

The Proponent made a presentation to the Boston Civic Design Commission ("BCDC") on December 4, 2012. The Project was sent to subcommittee and appeared before the subcommittee on December 11, 2012, at which various aspects of the Project were reviewed. On January 8, 2013, BCDC voted to approve the design for the Project.

Prior to and since the filing of the updated Letter of Intent, the Proponent has had regular meetings with the IAG and community groups to review and discuss the Project and respond to community comments. Meeting with the IAG were held on September 12, November 26 and December 6, 2012. A list of the meetings held with community groups is attached as Exhibit B.

The Proponent has requested that the Authority issue a Determination waiving further review in response to the Second NPC.

### **URBAN DESIGN**

The Project's massing as a T-shaped floor plate creates elegant and slender building proportions from various viewpoints that appear as a collection of forms on the horizon. At the pedestrian level, the Project's ground floor features a 2 story open-air public pedestrian arcade that will serve as a thoroughfare connecting Nashua Street to Causeway Street.

The Project's massing is organized around a 32 story residential tower set atop a 6-story podium that is composed by the existing foundation structural grid of the below-grade garage that the Project is set on. However, the design of the Project has been modified from the Project described in the PNF to closely align the tower massing with the existing below-grade foundation elements, so that an entire floor of structural transfers included in the previously-approved Project is eliminated thereby facilitating an extra residential floor within the same building height.

Each residential floor will include a range of unit types, including studios, one-bedroom, two-bedroom and three-bedroom units.

### **PUBLIC BENEFITS AND MITIGATION**

- The Project will provide the following public benefits:
- Expansion of residential opportunities, which may be rental and/or for sale, by approximately 503 new units of housing units in the North Station area, consisting of both market rate and affordable units and including approximately 32 3-bedroom units suitable for families.
- Provide for thirty (30) affordable housing units on-site, and an Inclusionary Development Policy ("IDP") contribution of \$2,604,000 for the creation of off-site affordable housing units, as more particularly described below.
- Improvements to pedestrian environments including a 2 story arcade lined by retail space which will organize pedestrian circulation from North Station and the TD Garden to Causeway Street and the West End, increasing safety and enhancing the overall pedestrian experience.
- Landscaping and hardscape improvements to the pedestrian environments in and around the area bounded by Nashua Street and Lomasney Way and maintenance of such landscaping and sidewalk improvements, contingent on the transfer to the Authority of portions of such land now owned by the MBTA and/or MassDOT and upon receipt of all necessary approvals including the approval of relevant land owners and the City of Boston Public Improvement Commission.
- Provide \$350,000 of funding for the Cross Roads initiative for improvements along Causeway Street, one-half of which will be paid on the issuance of the full building permit for the Project and one-half of which will be paid on the issuance of the final Certificate of Occupancy for the Project.

- Provide \$150,000 in community benefits to the West End Community Center for community use, payable on issuance of the full building permit.
- Provide \$25,000 in community benefits to the West End Community Center, to be paid in equal annual installments over a five year period commencing on issuance of a final Certificate of Occupancy.
- Provide \$25,000 in community benefits to Community Works Services, to be paid in equal annual installments over a five year period commencing on issuance of a final Certificate of Occupancy.
- Provide \$25,000 in community benefits to the West End Museum, payable on issuance of the full building permit.
- Provide \$25,000 to the Authority, or its designee, for the establishment of a Friends of Thoreau Path for Thoreau Path maintenance and site improvements, payable on issuance of the full building permit.
- Annual real estate tax payments to the City of Boston of approximately \$1,750,000.
- Create full-time and part-time construction jobs for the construction period.

### **AFFORDABLE HOUSING**

The Proponent will provide a combination of on-site affordable housing and contributions to the Authority. In total, thirty (30) affordable units will be located on-site and the Proponent will contribute to the Authority's IDP Fund a contribution of \$2,604,000.

The 363 units, which were approved based on the PNF filed in April, 2004 are subject to a 10% requirement for affordable housing units in compliance with the IDP in effect at the time of the approval of the original Project. Such units will be provided by eighteen (18) affordable units located on-site and a payment to the IDP Fund of \$1,404,000 (corresponding to 18 affordable units) for the creation of off-site affordable housing units, one-half of which will be paid on issuance of a full building permit and one-half of which will be paid on issuance of a final Certificate of Occupancy. Nine of these on-site affordable units will be available to households earning at or below 80% of the Area Median Income ("AMI") and nine of these on-site affordable housing units will be available to households earning between 80% and 120% with an average of 100% of the AMI.

The 140 additional units being approved under the Second NPC will provide affordable housing in an amount equal to 15% of the additional market-rate units being built or 13% of the total additional units, which will comply with the Mayor's Executive Order Relative to IDP of February 3, 2005, as amended to date. As part of the Affordable Housing Commitment with respect to the 140 additional units, twelve (12) affordable units, which number may be adjusted based on the IDP if less than 503 units are constructed, will be built on-site and will be affordable to households earning 80% of the AMI, and the Proponent will contribute to the Authority's IDP Fund an affordable housing contribution of \$1,200,000 corresponding to six (6) affordable units, to be paid over a seven-year period commencing with the issuance of the full building permit.

The on-site affordable units are proposed to be located on floors seven (7) through fifteen (15) of the Project and will be representative of the overall mix of units.

## **ZONING**

The Project is located in the New Boston Garden Development Area of the North Station Economic Development Area which is governed by Article 39 of the Boston Zoning Code (the "Code") and shown on Map 1B. The Project as described in the PNF received Zoning Relief from the Zoning Board of Appeal in 2005 consisting of a variance from Article 39, Section 6 of the Code regarding maximum as-of-right floor area ratio, variance from Article 39, Section 6 of the Code regarding maximum as-of-right height; and an interpretation of and exception from Article 39, Section 13, Table C of the Code, regarding required sky plane setbacks. The Decision of the Board of Appeal was filed with the Inspectional Services Department on September 14, 2005, and subsequently extended by various extensions, the most recent of which will expire on September 14, 2013. A modification of the zoning relief, specifically with respect to maximum as-of-right floor area ratio and setback, and further extension of the zoning relief will be sought from the Zoning Board of Appeal in connection with the Project as described in the Second NPC.

## **AMENDMENT TO THE NORTH STATION URBAN RENEWAL PLAN**

The Project Site is Parcel 2B of the North Station Urban Renewal Plan, adopted by the Authority on May 22, 1980 and approved by the Boston City Council on July 16, 1980, as amended (the "Plan").

Development of the Project is consistent with the planning objectives of the Plan, which include the encouragement of sound, integrated mixed-use development, including residential and commercial uses, and providing higher economic uses through public and private redevelopment. The Plan was previously modified by Minor Modification on April 7, 2005 in order to accommodate the Project as described in the PNF. While the Project will advance the goals and objectives of the Plan, further minor modification is

required to modify subsection 2.2.3.2.b for Parcel 2B setting forth the maximum floor area ratio and other requirements for Parcel 2B. The language of subsection 2.2.3.2.b.3 is as set forth in the proposed Resolution of the Boston Redevelopment Authority attached as Exhibit A.

### **CONFIRMATION OF THE TERMINATED CHAPTER 121A STATUS FOR TITLE PURPOSES**

As noted in the PROJECT HISTORY section above, some adjacent air rights parcels were included in the project area of the Garden Corporation Chapter 121A Project. These parcels were known as Parcels A3, A4, C1, C2, and C3. The Garden Corporation Chapter 121A Project has terminated. On May 19, 2005, the Authority Board adopted a Second Amendment to the Garden Corporation Chapter 121A Project, which specifically authorized the termination of Parcels A3, A4, C1, C2, and C3, while the Chapter 121A status for the Garden Corporation Chapter 121A Project was still in effect, but documents reflecting such termination were not executed. As of October 28, 2007, the Garden Corporation Chapter 121A Project has terminated in full. For title purposes for the Project, it may be necessary to provide documentation evidencing the termination of Parcels A3, A4, C1, C2, and C3 as under M.G.L. Chapter 121A. If requested by the Proponent for title purposes, Authority staff recommends that the Director be authorized to execute documents confirming the termination of the Chapter 121A status for Parcels A3, A4, C1, C2, and C3, and, or, the entire Garden Corporation Chapter 121A Project.

### **LOWELL WAY EASEMENT**

As part of the TD Garden development and as contemplated in a certain Sale and Construction Agreement dated April 15, 1993, by and among the City, Authority, Garden Corporation and NBGC, the Authority granted a non-exclusive pedestrian easement to the Garden Corporation over Lowell Way for arena purposes. It was planned that the easement area would also provide pedestrian access and egress to and from Causeway Street from a future development on the Project Site. The Project needs the same easement area for pedestrian access and egress to and from the Project Site. The Garden Corporation has requested that the Authority amend the existing easement so that such easement is for the benefit of the Project and not limited for arena purposes and to provide the degree of certainty required to proceed with the successful development of the Project. Authority staff is working with the Garden Corporation to execute a new non-exclusive pedestrian easement or amend the existing easement for the benefit of the Project Site and include Project uses.

## RECOMMENDATIONS

Authority staff believes that the Second NPC meets the criteria for the issuance of a Determination waiving further review under Article 80A-6.2 of the Code. Based on the foregoing, Authority staff recommend that the Authority authorize the Director to (1) approve a minor modification and adopt a resolution modifying the North Station Urban Renewal Plan (the "Plan") to allow for a proposed project on Parcel 2B in the North Station Urban Renewal Area ("North Station URA"); (2) issue a Determination waiving the requirement of further review pursuant to Article 80, Section 80A-6.2 of the Code which finds that the Second Notice of Project Change does not significantly increase the impacts of the Nashua Street Residences Project and no additional review is required; (3) issue a Certification of Compliance under Section 80B-6 upon successful completion of the Article 80 review process; (4) execute and deliver a Cooperation Agreement, an Affordable Housing Agreement and Restriction, an Affordable Housing Contribution Agreement, a Boston Residents Construction Employment Plan, documents confirming the termination of the Chapter 121A status for the Project Site, and if necessary the Garden Corporation Chapter 121A Project; and any and all other agreements and documents that the Director deems appropriate and necessary in connection with the development of the Nashua Street Residences Project; and (5) authorize the Director to execute a new easement or an amendment to existing easement in connection with an Authority owned parcel over Lowell Way, to grant pedestrian access and egress to and from Causeway Street to and from the Project.

Appropriate votes follow:

**VOTED:** That the Boston Redevelopment Authority hereby adopts the Resolution, entitled: "RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY RE: MINOR MODIFICATION OF THE NORTH STATION URBAN RENEWAL PLAN WITH RESPECT TO PARCEL 2B AND AUTHORIZATION TO PROCLAIM BY CERTIFICATE THE MINOR MODIFICATION" presented at this meeting; and

### **FURTHER**

**VOTED:** That the Director be, and hereby is, authorized to issue a Determination waiving the requirement of further review pursuant to Article 80, Section 80A-6.2 of the Code, which finds that the Second Notice of Project Change does not significantly increase the impacts arising from the Nashua Street Residences Project and waives further review of the Nashua Street Residences Project, subject to continuing design review by the Authority; and

**FURTHER**

**VOTED:** That the Director be, and hereby is, authorized to issue a Certification of Compliance for the Nashua Street Residences Project pursuant to Section 80B-6 of the Code upon the successful completion of all Article 80 processes; and

**FURTHER**

**VOTED:** That the Director he, and hereby is, authorized to execute and deliver all documents deemed appropriate by the Director in connection with the Nashua Street Residences Project, including, without limitation, a Cooperation Agreement, an Affordable Housing Agreement and Restriction, an Affordable Housing Contribution Agreement, a Boston Residents Construction Employment Plan, documents confirming the termination of the M.G.L. Chapter 121A status for the Project Site, and if necessary the Garden Corporation Chapter 121A Project; and any and all other agreements and documents which the Director deems appropriate and necessary in connection with the Nashua Street Residences Project, all upon terms and conditions determined to be in the best interests of the Boston Redevelopment Authority; and

**FURTHER**

**VOTED:** That the Director be, and hereby is authorized on behalf of the Boston Redevelopment Authority to execute and deliver such agreements, documents or instruments, as he determines necessary and appropriate to: grant a nonexclusive pedestrian easements over Parcel D-1/Lowell Way for the benefit of the Nashua Street Residences Project; all containing terms and conditions deemed necessary and appropriate by the Director and in the best interest of Boston Redevelopment Authority.

Exhibit A – Resolution of Minor Modification of the North Station Urban Renewal Plan  
Exhibit B – Meetings with Community Groups and Interested Parties

EXHIBIT A

**RESOLUTION OF THE BOSTON REDEVELOPMENT AUTHORITY**

**RE: MINOR MODIFICATION OF THE NORTH STATION URBAN RENEWAL  
PLAN WITH RESPECT TO PARCEL 2B AND AUTHORIZATION TO PROCLAIM  
BY CERTIFICATE THE MINOR MODIFICATION**

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**WHEREAS**, the Urban Renewal Plan for the North Station Urban Renewal Area was adopted by the Boston Redevelopment Authority (the "Authority") on May 22, 1980, and approved by the Boston City Council on July 16, 1980 (said plan, as amended, being herein referred to as the "Plan"); and

**WHEREAS**, Section 2.3.8 of the Plan, entitled "Modification and Termination" provides that the Plan may be modified at any time by the Authority without the approval of the Boston City Council and the State Department of Community Affairs (now known as the Commonwealth of Massachusetts Department of Housing and Community Development), unless the proposed modifications may substantially or materially alter or change the Plan; and

**WHEREAS**, it is the opinion of the Authority that the modification hereinafter provided is consistent with the objectives of the Plan, is not a modification that may substantially or materially alter or change the Plan, and is a minor modification which may be adopted within the discretion of the Authority pursuant to said Section 2.3.8;

**WHEREAS**, the proposed modification to the Plan is necessary to effectuate the redevelopment of Parcel 2B for the Nashua Street Residences project; and

**WHEREAS**, the Authority is cognizant of the requirements of Massachusetts General Laws Chapter 30, Sections 61 through 62H, as amended, and its implementing regulations (collectively, "MEPA") with respect to minimizing and preventing damage to the environment.

**NOW, THEREFORE BE IT RESOLVED BY THE BOSTON  
REDEVELOPMENT AUTHORITY:**

1. That Section 2.2.3.2.b of the Plan, as previously modified by Minor Modification adopted on April 7, 2005 as Document No. 6620, regarding Parcel 2B, is hereby modified by deleting provision 3 and replacing it in its entirety with the following:

"3. Maximum Floor Area Ratio: To be determined by the Authority."

2. That the proposed modification is found to be a minor modification which does not substantially or materially alter or change the Plan.

3. That except as expressly amended in this resolution, as aforesaid or inconsistent herewith, all other provisions and maps of the Plan shall remain in full force and effect as originally written and subsequently, expressly amended.
4. That it is hereby found and determined pursuant to MEPA that the foregoing modification of the Plan, and any proposed development undertaken pursuant thereto, will not result in significant damage to or impairment of the environment, and further that all practicable and feasible means and measures have been taken and are being utilized to avoid or minimize damage to the environment.
5. That the Director be, and hereby is, authorized and directed to proclaim by certificate this minor modification of the Plan, all in accordance with the provisions of the Urban Renewal Handbook, RHM 7207.1, Circular dated August, 1974, if applicable.

EXHIBIT B

Meetings with Community Groups and Interested Parties

<b>Date(s) of Meeting</b>	<b>Name of Community Group/Interested Party</b>
August 13, 2012; September 6, 2012	U.S. General Services Administration
September 12, 2012; November 26, 2012; December 6, 2012	IAG
September 25, 2012	Councilman Mike Ross
October 1, 2012	Representative Marty Waltz
October 1, 2012; December 13, 2012	West End Civic Association
October 4, 2012; October 15, 2012	Downtown North Association
October 17, 2012	West End Place Association
October 18, 2012	West End Council