

**TOWN OF WEYMOUTH, MASSACHUSETTS  
BOARD OF ZONING APPEALS  
NOTICE OF DECISION ON SPECIAL PERMIT**

(To be mailed forthwith to the owner and applicant, if not the owner.)

**Owner:** East Bay at Weymouthport Corporation **Date:** April 6, 2017  
**Address:** c/o DAI Property Management Company, Inc.  
325 Wood Road  
Braintree, MA 02184

**Applicant:** DAI Property Management Company, Inc. **Case #:** 3322  
**Address:** 325 Wood Road  
Braintree, MA 02184

**Representative:** Frank A. Marinelli, Esq. **Site Address:** 84-94 Broad Reach  
Marinelli Law Office **Sheet:** 3  
439 Washington Street **Block:** 1  
Braintree, MA 02184 **Lot:** 1

**Zoning District:** R-4

The petitioner submitted a Special Permit application, filed on January 9, 2017, for a Special Permit to construct a building with more than twenty (20) residential units (Zoning Ordinance, Section 120-21.1 and 120-18 (c)). Presently located on the approximate 15.07-acre lot (the "Site") is an existing 72-unit residential building. The petitioner seeks to construct a 6-story, 50-unit residential condominium building with 22 covered parking spaces on the first floor and 50 residences located on the second through sixth floors, seven (7) single-story four-space garages and fifty-nine (59) additional exterior parking spaces.

After a public hearing opened on February 15, 2017 and closed on March 22, 2017, and deliberated on March 22, 2017, the Board of Zoning Appeals (the "Board") at its meeting on March 22, 2017 on a motion duly made and seconded:

**VOTED 4-0 TO GRANT THE REQUESTED SPECIAL PERMIT** by Board members Richard M. McLeod, Chairman, Kemal A. Denizkurt, Edward Foley and Jonathan Moriarty voting in favor to grant the requested Special Permit and to approve the 50-unit residential condominium building and related features known as Seascape at Weymouth ("Seascape"), and based upon the following findings of fact and the plans of record, said plans entitled *Site Development Plans for Seascape at Weymouth* with revision date 1/9/2017, and with the following conditions:

1. That post-construction and occupancy of Seascape, there shall not be constructed additional residential density on the Site as set forth in the Condition;

*East Bay at Weymouthport Corporation, its successors and assigns, hereby covenant that following construction and occupancy of the Seascape at Weymouth building, there shall not be constructed upon the property identified as Weymouth Assessors Map 3, Block 1, Lot 1 (the "site") additional dwelling unit building(s) that would increase the number of dwelling units located upon the site beyond the number of existing dwelling units attributable to the site (including Essex and Dover dwelling units) and the construction and occupancy of Seascape and its related improvements. Nothing contained herein shall preclude construction of any improvements related to the site and/or to be located at, under or upon the site. Nothing*

reports and recommendations are favorable for Seascope. The traffic findings of Vanasse and Associates are accepted by the Town's traffic engineer. As set forth in the fiscal impact report, Seascope is expected to have positive net real estate tax revenue flow to the Town in excess of \$200,000.00 annually at full assessment, together with one-time building permit fees in excess of \$150,000.00. Seascope does not cause any inordinate consumption of municipal services; Seascope's fiscal impact report anticipates 0 to 4 school age children per year, based upon data from the immediate area. Concerning past environmental remediation at the Site, there is a post-remediation Activity Use Limitation ("AUL") at the Site (2008), which concludes "no significant risk" to health, safety and public welfare. The AUL allows residential use of the Site. In the event of excavation below three (3) feet (which is required, by example, for utilities and/or foundations), occurring in limited areas of the Site during the initial stage of construction, there must be a health and safety plan and soil management plan, all of which have been provided by the petitioner. The petitioner is also providing air monitoring during construction excavation. The petitioner has agreed to monthly meetings with the Town during construction as will be coordinated by the Planning Department. The applicant has also made a required Phase IV filing with MA Department of Environmental Protection ("DEP").

2. The use involved will not be detrimental to the established or future character of the neighborhood or Town. The Board findings set forth in no. 1 above are incorporated herein by reference. The established character of the R-4 zone and neighborhood is multi-unit residential. Seascope represents a new, attractive and modest-sized addition to the immediate area's residential inventory. Seascope complies with the dimensional requirements of the Weymouth Zoning Ordinances for the R-4 zone. Seascope will not be detrimental to the established or future character of the neighborhood or Town, but instead, will be an improvement. Seascope represents a modest increase in the immediate area's residential inventory. Seascope adds 50 residential units (or less than 12%) to 420 existing multi-unit residences in the area comprised of Weymouthport (276), Dover (72) and Essex (72) buildings. The Decision's conditions, plans and Covenant, and the Town's FAR, provide for no additional density or dwelling units at the Site after construction and occupancy of Seascope. As compared to Weymouthport (circa 1970s), Seascope will be new, with different architecture and materials, and have significantly less density of residential units per acre. In addition to its fiscal and architectural benefits, Seascope also provides community support to the North Weymouth neighborhood and the Town of Weymouth in general. Seascope will extend a sidewalk on the northerly side of Broad Reach in the vicinity of the 220 bus stop. Upon issuance of a final building permit and commencement of construction, Seascope will contribute \$10,000 to the cost of a Town-planned "tot" play area in the vicinity of Wessagusset Beach and Lane Beach, or such other designated North Weymouth recreational project. Upon the issuance of a final building permit and commencement of construction, Seascope will contribute the sum of \$38,000 to be allocated toward the cost of engineering work for North Weymouth Beach Connection. Finally, the balance of the Seascope's community support budget (\$212,000.00) will be paid to the Town by the petitioner upon the sale of sixty (60%) percent of the 50 Seascope residential units, or upon the sale of thirty (30) Seascope units. Of the \$212,000.00 community support balance, \$50,000.00 will be used by the Town for the trails program, which is part of Back River Master Plan, and \$162,000.00 will be used by the Town toward engineering and/or construction costs of the North Weymouth Beach Connection. Town department reports and recommendations are favorable for Seascope.
3. There will be no nuisance or serious hazard to vehicles or pedestrians. Vehicle trips related to Seascope are objectively minimal, one new vehicle trip every two (2) minutes during the peak hour. The traffic findings of Vanasse and Associates are accepted by the Town's

traffic engineer. There are no discernible safety deficiencies. Seascape will extend a sidewalk on the northerly side of Broad Reach in the vicinity of the 220 bus stop to facilitate pedestrian travel. The Broad Reach boulevard, with median, will be continued into Seascape to maintain similar consistency of design. The Board findings set forth in nos. 1 and 2 above are incorporated herein by reference.

4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use. The petitioner has substantial experience in the development and management of real estate. The facilities that are provided for the proper operation of a 50-residence use known as Seascape are more than adequate and appropriate. The Seascape building complies with all dimensional and height requirements of the R-4 multi-unit residential zone. Seascape has substantial amounts of private property in natural condition and landscaping. Seascape has adequate parking and safe circulation for 50 residences. Seascape has ten (10) residential units per floor on floors 2 through 6 of the Seascape building. The Seascape building is of modest size with a footprint that is less than 10% the size of the Weymouthport buildings' and hardscape collective footprint. There is adequate emergency and fire response access to the Site and to the Seascape building. The Seascape building has an elevator and is handicap accessible. The Board's findings set forth in nos. 1 through 3 are incorporated herein by reference.
5. The public convenience and welfare will be substantially served by Seascape. Seascape provides needed residential inventory. As a modest-sized community of 50 residences, Seascape will be a safe and secure building to live in, and which complies with zoning dimensional requirements, with adequate emergency and handicap access, adequate circulation and parking that also conforms to zoning. The building is designed with brick, other materials, staggered facades and balconies, and is architecturally attractive. There is just one additional vehicle trip every two (2) minutes in the peak hour related to Seascape. Seascape's fiscal impact to the Town is positive, with net real estate tax revenue to the Town expected to exceed \$200,000 annually at full assessment, together with one-time building permit fees in excess of \$150,000, and with little impact on the school system and no inordinate consumption of municipal services. During its planning, Seascape developers conducted significant outreach and meetings with the Town and proximate condominium and apartment associations/entities and with the North Weymouth Civic Association. Seascape provides community support to the North Weymouth neighborhood and the Town of Weymouth in general as set forth in these Findings. Town department reports and recommendations are favorable for Seascape. The Board's findings nos. 1 through 5 are incorporated herein by reference.

Under MGL Chapter 40A, Section 11, the approval of the Zoning Board of Appeals will not take effect until the petitioner records, at his or her expense, a copy of this Decision with the Norfolk County Registry of Deeds. The rights authorized by this Special Permit must commence no later than 24 months from the grant hereof.

**After the twenty (20) day appeal period has passed, the Town Clerk will send to the petitioner: (1) the certificate that no appeal was filed, (2) the certificate of granting of variance and/or special permit. The petitioner shall record these documents with the Norfolk County Registry of Deeds, Dedham, MA, with the appropriate filing fee.**

When a receipt from the Registry of Deeds is presented to the Building Inspector (to show that the decision has been recorded), the proper permit will be issued.

Decision filed with the Town Clerk on APRIL 6, 2017.

**IMPORTANT:** Notice is further given that any person aggrieved by this decision may appeal, according to MGL Chapter 40A, Section 17, and said appeal, if any, must be filed with Town Clerk within twenty (20) days after the filing of the decision with the Town Clerk.

A handwritten signature in black ink, appearing to read 'Robert Luongo', written over a horizontal line.

Robert Luongo, Director of Planning and Community Development

**THE COMMONWEALTH OF MASSACHUSETTS**

**WEYMOUTH**

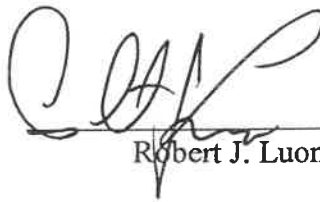
**BOARD OF APPEALS**

April 6, 2017

**Certificate of Granting of Variance or Special Permit**  
**(General Laws Chapter 40A, Section 11)**

The Board of Appeals of the town of Weymouth hereby certifies that a Variance or Special Permit has been granted to DAI Property Magement Company, Inc., 325 Wood Road, Braintree, MA 02184, affecting the rights of the owner with respect to land or buildings at 84-94 Broad Reach, also shown on the Weymouth Town Atlas Sheet 3, Block 1, Lot 1, and the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said variance – special permit, and that copies of said decision, have been filed with the Planning Board and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.



Robert J. Luongo, Planning Director

Kathleen Deree, Town Clerk

Case # 3322

Date of Hearing: 2/15/2017, 3/22/2017

## EXHIBIT A OF BOARD OF ZONING APPEALS DECISION

### COVENANT

WHEREAS, by deed recorded with Norfolk County Registry of Deeds at Book 7043, Page 530, East Bay at Weymouthport Corporation ("East Bay") is the owner of land comprised of approximately 15.069 acres and identified as Weymouth Assessors Map No. 3, Block 1, Lot 1 (hereafter "Lot 1" or "Site");

WHEREAS, existing and proposed residential development at Broad Reach, Weymouth, MA includes Dover building (72 residential dwelling units), Essex building (72 residential units), Weymouthport (276 residential dwelling units) and Seascape at Weymouth (50 residential dwelling units) ("Seascape");

WHEREAS, East Bay has represented to the public and the Town of Weymouth (the "Town") that following construction and occupancy of Seascape, East Bay, its successors and assigns (collectively "East Bay"), shall not develop any additional buildings to be used for any additional dwelling units on Lot 1 other than those additional dwellings at Seascape and already existing units on, or attributable to, Lot 1. Additionally, East Bay shall not develop any commercial or industrial building, but nothing contained in this Covenant shall prohibit uses and related structures that are currently allowed under zoning such as marina and boat slips. Nothing contained in this Covenant shall prohibit accessory and recreational uses and structures for such uses by the owners of Lot 1, their related entities, successors, assigns and guests, including amenity building with food and beverage service, swimming pool, tennis courts and the like; and

WHEREAS, East Bay has applied to the Zoning Board of Appeals of the Town for a Special Permit in connection with the proposed development of Seascape, and as a condition of said Special Permit (recorded with the Norfolk County Registry of Deeds herewith), the Zoning Board of Appeals has required, and East Bay has agreed, to grant this Covenant to the Town.

WHEREAS, East Bay gifts to the Town, for nominal consideration, in perpetuity, this covenant concerning Lot 1 in accordance with G.L. c. 184, §§ 23 and for the purpose of barring certain future development on Lot 1 as described within in more detail;

NOW THEREFORE, East Bay covenants with the Town as follows:

1. Upon construction and occupancy of Seascape at Weymouth (50 new residential dwelling units), East Bay shall not propose or construct any additional residential buildings containing additional residential dwelling units upon Lot 1. Current FAR ("floor area ratio") does not allow for additional dwelling units upon Lot 1 after the construction and occupancy of Seascape at Weymouth ("Seascape").
2. Nothing contained herein shall apply to or restrict existing dwellings or existing density, plus the proposed 50-unit residential density that includes construction and occupancy of Seascape.
3. East Bay shall not construct any commercial or industrial building upon Lot 1, but nothing contained in this Covenant shall prohibit uses and related structures that are currently allowed under zoning such as marina and boat slips. Nothing contained in this Covenant shall prohibit the construction of accessory and recreational uses, structures and improvements for the use and enjoyment by the owners of Lot 1, their related entities, successors, assigns and guests, including amenity building with food and beverage service for Lot 1 and their guests, swimming pool, tennis courts and the like, and to be located at, under, or upon Lot 1. Lot 1 is privately-owned property, now imbued by this Covenant on behalf of the Town; nothing contained herein shall create any right of the uninvited public to enter upon Lot 1.
4. Nothing contained herein shall preclude the maintenance, repair, construction, reconstruction and replacement of any existing, presently proposed or future improvements as described herein including but not limited to parking, drainage, pilings, amenities and buildings containing dwelling units. The construction of any such amenities and other structures and Site improvements in the future shall be consistent with the covenant not to create any additional residential buildings containing additional dwelling units and any building for commercial or industrial use, except as set forth in paragraph no. 3 above. The "commercial" prohibition stated herein does not apply to any use involving a charge to residents of Lot 1 and their guests including but not limited to food service, amenities and recreational uses. Any additional improvements to Lot 1 shall require any necessary permits, as applicable.

5. In the event that East Bay does not begin construction of Seascape, then this Covenant shall be null and void;
6. Prior to construction of Seascape, this Covenant shall be recorded. East Bay and the Town agree that this covenant concerns Lot 1 and that it is their intent that the benefits and burdens of this covenant shall run with the land and bind all successors and assignees of each party.
7. In the event of construction of Seascape, this Covenant shall benefit the public and the Town, and the Town may prosecute proceedings at law or in equity against any person or entity violating this Covenant.
8. The undersigned warrants and represents that he is duly authorized on behalf of East Bay to execute this Covenant.

Signed this \_\_\_\_ day of \_\_\_\_\_ 2017

EAST BAY AT WEYMOUTHPORT CORPORATION

\_\_\_\_\_  
By David A. Iantosca, Its President  
and Treasurer



COMMONWEALTH OF MASSACHUSETTS

\_\_\_\_\_, ss.

On this day of \_\_\_\_\_ 2017, before me, the undersigned notary public, personally appeared David A. Iantosca proved to me through satisfactory evidence of identification, which was [ ] photographic identification with signature issued by a federal or state governmental agency, [ ] oath or affirmation of a credible witness, [ ] personal knowledge of the undersigned, to be the person whose name is signed on the within Covenant and acknowledged that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

On behalf of the public generally and the Town of Weymouth specifically, I accept this gift of a covenant concerning Lot 1 as so described above.

Signed this \_\_\_\_ day of \_\_\_\_\_ 2017

TOWN OF WEYMOUTH

\_\_\_\_\_  
By Robert L. Hedlund, Its Mayor

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this day of 2017, before me, the undersigned notary public, personally appeared Robert L. Hedlund, Mayor of the Town of Weymouth, proved to me through satisfactory evidence of identification, which was personal knowledge of the undersigned, to be the person whose name is signed on the within Covenant and acknowledged that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

Print Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_