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PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

**MAJOR PROJECT SITE PLAN REVIEW SPECIAL PERMIT
AMENDMENT TO DECISION
Application No. 2009-06**

**Needham Farmers Market, Inc.
Town of Needham
April 2, 2024**

(Original Decision dated November 17, 2009,
amended March 2, 2010, November 16, 2010, November 16, 2010,
June 21, 2011, May 1, 2012, April 25, 2017, May 1, 2018,
May 20, 2020, March 2, 2021, December 21, 2021, July 12, 2022 and May 16, 2023)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Needham Farmer's Market, Inc., 227 Eliot Street, Ashland, MA, 01721 and Town of Needham, 1471 Highland Avenue, Needham, MA, (hereinafter referred to as the Petitioner) for property located at 1471 Highland Avenue, Needham, Massachusetts. Said property is shown on Assessors Plan No. 51 as Parcel 1 containing 1.36 acres in the Center Business District.

This Decision is in response to an application submitted to the Board on January 23, 2024 by the Petitioner for: (1) a Major Project Site Plan Review Special Permit amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 4.2 of Major Project Site Plan Special Permit No. 2009-06, dated November 17, 2009, as amended; (2) a Special Permit under Section 3.2.2 of the Needham By-Law for a farmers market in the Center Business District; (3) a Special Permit under Section 3.2.2 of the By-Law for more than one use on a lot; and (4) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the off-street parking requirements of Sections 5.1.2 and 5.1.3 of the By-Law (Off-Street Parking Requirements).

The requested Major Project Site Plan Review Special Permit Amendment would permit the operation of a farmers market on a small portion of the Town Common and Garrity's Way. Needham Farmers Market (NFM) operated on the Town Common and Garrity's Way during the seasons of 2017 to 2021; however, in 2022 NFM was required to relocate due to a planned renovation of the Town Common in 2022, with Garrity's Way planned to be used for staging materials. NFM subsequently used Greene's Field for two seasons: 2022 and 2023. Now that the Town Common renovations have been completed, NFM seeks permission to return. NFM is applying to make the following changes and amendments to the earlier Special Permits (2017-22) for use of the Site: (1) In 2024, NFM proposes to be open from June 16th to October 27th, inclusive; (2) NFM's hours of operation to the public are proposed to be 11 a.m. to 3 p.m. Setup of the Market is proposed to be 9 a.m. to 11 a.m. and breakdown is proposed to be 3 p.m. to 5 p.m.; (3) NFM proposes to have a maximum of seventeen (17) food vendors per market; (4) NFM proposes to have a maximum of four (4) artists per market; (5) NFM will have a Market Manager and a Community Table; (6) At least seventy-five percent (75%) of all vendors are proposed to sell fresh produce and other food products from booths, tables, or other temporary structures, as previously required at Greene's Field in 2022-

23. The property is the subject of Major Project Site Plan Special Permit No. 2009-06, issued to Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, dated November 17, 2009 and amended March 2, 2010, November 16, 2010, November 16, 2010, June 21, 2011, May 1, 2012, April 25, 2017, May 1, 2018, May 20, 2020, March 2, 2021, December 21, 2021, July 12, 2022 and May 16, 2023.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Adam Block, on Tuesday, February 27, 2024 at 7:00 p.m. in the Charles River Room, Needham Public Services Administration Building, 500 Dedham Avenue, Needham, MA, as well as by Zoom Web ID Number 880 4672 5264. Board members, Adam Block, Natasha Espada, Paul S. Alpert, Jeanne S. McKnight, and Artie Crocker were present at the February 27, 2024 public hearing. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1** Application Form for Further Site Plan Review completed by the applicant dated January 23, 2024.
- Exhibit 2** License Agreement between the Needham Farmers Market and the Town of Needham, dated January 10, 2024.
- Exhibit 3** Plan entitled "Needham Farmers Market Layout - 2024."
- Exhibit 4** Three letters from Jeffery M. Friedman, President, Needham Farmers Market, two dated January 12, 2024 and one dated February 11, 2024.
- Exhibit 5** Letter from Bagel's Best dated February 23, 2024.
- Exhibit 6** Letter from Paula Jacobson, Executive Director, Charles River YMCA, dated February 23, 2024.
- Exhibit 7** Interdepartmental Communication (IDC) to the Board from Chief Tom Conroy, Needham Fire Department, dated February 21, 2024; IDC to the Board from Chief John Schlittler, Police Department, dated January 26, 2024; IDC to the Board from Joeseeph Prondak, Building Commissioner, dated February 21, 2024; IDC to the Board from Tara Gurge, Needham Health Division, dated February 21, 2024; and IDC to the Board from Justin Savignano, Assistant Town Engineer, dated February 21, 2024.

EXHIBITS 1, 2, 3 and 4 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

- 1.1 The subject property is located in the Center Business zoning district at 1471 Highland Avenue, Needham, MA, 02492, owned by Town of Needham. Said property is shown on Needham Town Assessors Plan No. 51 as Parcel 1 containing 1.36 acres.

- 1.2 The property is the subject of Major Project Site Plan Special Permit No. 2009-06, issued to Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, dated November 17, 2009 and amended March 2, 2010, November 16, 2010, November 16, 2010, June 21, 2011, May 1, 2012, April 25, 2017, May 1, 2018, May 20, 2020, March 2, 2021, December 21, 2021, July 12, 2022 and May 16, 2023.

- 1.3 On November 17, 2009, under Major Project Site Plan Review Special Permit No. 2009-06, dated November 17, 2009, issued to the Town of Needham, the Board approved the expansion of the existing Town Hall by approximately 13,836 square feet, and the renovation of approximately 20,989 square feet of the existing facility for a total of 34,825 square feet.

On April 25, 2017, the Board approved an amendment to Major Project Site Plan Review Special Permit No. 2009-06 to permit the operation of a farmers market on Garrity's Way on Sunday afternoons.

On December 21, 2021, the Board approved an amendment to Major Project Site Plan Review Special Permit No. 2009-06 to permit the comprehensive redesign and renovation of the Town Common at 1471 Highland Avenue. The complete redesign included replacement of the lawn, landscaping, pedestrian pathways, seating areas, lighting, and other amenities. The farmers market relocated during the construction.

Additional Amendments were issued on the property dated: March 2, 2010, November 16, 2010, November 16, 2010, June 21, 2011, May 1, 2012, May 1, 2018, May 20, 2020, March 2, 2021, July 12, 2022 and May 16, 2023.

- 1.4 The Needham Farmers Market, Inc. (NFM) is a nonprofit corporation and civic organization based in Needham with the purpose of operating a farmers market in Needham and advancing community goals of healthy food and diet, especially for children, as well as providing a meeting place for Needham residents.
- 1.5 The Town of Needham has agreed to allow the Needham Farmers Market to use a small portion of the Town Common and Garrity's Way for the operation of a farmers market on Sunday afternoons from Sunday, June 16, 2024 through the Sunday, October 17, 2024. This is pursuant to a License Agreement dated January 10, 2024 detailed under Exhibit 2 of this Decision. The application for Major Project Site Plan Review Special Permit Amendment is for permission to operate on Sunday afternoons the farmers market annually from June to October, pursuant to a fully executed License Agreement for each season with the Town of Needham through the Town Manager's Office or designee and the conditions of this Decision.
- 1.6 The Needham Farmers Market proposes to operate a farmers market on a small portion of the Town Common and Garrity's Way, in front of Needham Town Hall, for four hours every Sunday, opening at 11:00 a.m. and closing at 3:00 p.m.
- 1.7 The Needham Farmers Market has proposed to have a maximum of 17 vendors on each market day, who will use booths, tables, canopies or other temporary structures on the site. Each vendor will have approximately one person selling at its location. The Needham Farmers Market has stated that at least seventy-five percent (75%) of all vendors will sell food items. The Needham Farmers Market will have a staff of approximately two (2) people on each market day. In addition to the vendors, the Market will have tables, booths or

canopies (which might be shared) on Garrity's Way for Needham nonprofit organizations, four (4) artists, musicians, and NFM's Market Manager.

- 1.8 Set-up time is proposed to begin two hours before the start of the market (taking place from 9:00 a.m. to 11:00 a.m.) and break down time is proposed to be for two hours after the market closes (taking place from 3:00 p.m. to 5:00 p.m.). The hours of operation shall be from 11:00 a.m. to 3:00 p.m.
- 1.9 The 17 vendors will be located only in a small portion of the Town Common and Garrity's Way, all as shown on the plan detailed in Exhibit 3. Nothing from the Market will be located outside of the area shown on said plan.
- 1.10 During setup and breakdown, vendors may use parking spaces on Chapel Street, as well as two spaces on Highland Avenue, to unload and load if the spaces are available. During Market hours, the vendors will be parked in the Chapel Street Municipal Parking Lot or other municipal parking lots. During NFM's use of Garrity's Way, it will be blocked off with yellow tape, traffic cones, or by other means.
- 1.11 The Needham Farmers Market acknowledges that all food vendors shall obtain food permits from the Needham Board of Health unless excluded by State or Local regulations. All applicable State and Local Health regulations shall be met.
- 1.12 The Needham Farmers Market and its vendors propose to have liability insurance in effect during the farmers market as well as motor vehicle insurance.
- 1.13 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (off-street parking design requirements).
- 1.14 Under the By-Law Section 5.1.2, in the event that the Building Commissioner is unable to determine if a particular use relates to any use within the table of "Required Parking" (Section 5.1.2), the Planning Board shall recommend to the Building Commissioner a reasonable number of spaces to be provided based on the expected parking needs of occupants, users, guests or employees of the proposed business. Based on the Department of Public Works' recommendation, as recommended in Report 432 of the Planning Advisory Service for Off Street Parking Requirements for Farm Stands, the use requires 3 parking spots per every 1,000 square feet. The area of the property where the vendors will be stationed is calculated to be approximately 7,154 square feet. Therefore, the Board recommends a total parking requirement of 21 spaces ($7,154/1,000 \times 3 = 21$). Accordingly, a waiver of 21 parking spaces is required as all available on-site parking spaces have been previously allocated to Town Hall use. (It should be noted that the Board previously granted a waiver of 14 spaces to the NFM to operate at this location, so the net increase of parking waiver is 7 spaces).
- 1.15 The Petitioner proposes to operate the farmers market after the main activities of the Town Hall have concluded for the week. During the operation of the Market, parking for motor vehicles will be at the Chapel Street, Eaton Square, and Chestnut Street Municipal Parking Lots. The vendors will park at the Chapel Street Municipal Parking Lot. The Board finds that the parking lots in the vicinity, as noted above, will satisfy the parking demands for the Needham Farmers Market.

- 1.16 The Planning Board finds that no parking study is required for the farmers market use as proposed, due to its being held on Sundays, when parking in the Center of Town is least scarce and the Town Hall is closed.
- 1.17 The Needham Farmers Market proposes to have free musical entertainment from individuals or small groups at the farmers market, such as flute, fiddle or guitar players. Amplification, if any, would be limited and sound will not extend beyond the site.
- 1.18 Vendors will be permitted to use the restrooms of Bagels Best, Hearth Pizzeria and the Charles River YMCA.
- 1.19 Vendors will be required to remove all trash and waste per an agreement with Needham Farmers Market, Inc. Additionally, the Petitioner has stated that the farmers market staff will assist in picking up and removing all trash from the site.
- 1.20 Adjoining premises will be protected against seriously detrimental uses on the site by provision of surface water drainage, sound and site buffers, and preservation of views, light and air. The farmers market is proposed to utilize a small portion of the Town Common and Garrity's Way on Sunday afternoons from June through October. The Petitioner proposes no construction and no permanent site changes. The Needham Farmers Market proposes to have musical entertainment that will either be un-amplified or slightly amplified where the sound will not extend beyond the parking lot and Town Common.
- 1.21 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly has been assured. During the operation of the Needham Farmer's Market, parking for motor vehicles will be at the Chapel Street, Eaton Square, and Chestnut Street Municipal Parking Lots. The vendors will park at the Chapel Street Lot. Any additional traffic due to the Market on surrounding streets will be marginally increased, thus no traffic congestion. When the Needham Farmer's Market was previously located at this site, there was no traffic congestion due to the operation of the Market. The Needham Farmer's Market will be solely located on a small portion of the Town Common and Garrity's Way. During Market hours, this road will be blocked to vehicular traffic at Chapel Street and Highland Avenue. Town Hall is closed on Sundays. This location is centrally located in Needham and thus very accessible and convenient to go to by vehicle, walking, jogging, or bicycling. This location is convenient for residents already shopping at Downtown stores. The Market will stimulate retail business. Market shoppers can also eat at local restaurants in the Downtown. Residents out for a walk with their family or dog, jogging, relaxing at the Town Common, bicycling, or shopping can stop at the Market. The handicapped and the elderly can access the Market from the surrounding main arteries, i.e. Chapel Street, Highland Avenue, Great Plain Avenue, and from the Town Common. Bagel's Best, Hearth Pizzeria, and the Charles River YMCA will allow vendors to use their bathrooms.
- 1.22 Adequate methods for disposal of refuse and waste will be provided. Vendors will be required to remove all trash and waste per an agreement with Needham Farmers Market, Inc. Needham Farmers Market staff will additionally assist in picking up and removing all trash from the site. Vendors may use the bathrooms at Bagel's Best, Hearth Pizzeria, and the Charles River YMCA. The waste water system for these restaurants is connected to the municipal sewer system.

- 1.23 Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of this By-law has been assured. The Petitioner has not proposed any alteration to the structure or the scope of its operations. The relationship of structures and open spaces to the natural landscaping, existing buildings and other community assets will remain unchanged.
- 1.24 The proposed project will not have any adverse impacts on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The proposed use will not have an adverse impact on surrounding businesses. The existence of the Needham Farmers Market is an asset for Needham and will be a source of community in Needham.
- 1.25 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Review Permit amendment may be granted within the Center Business District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.26 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow for more than one nonresidential use on the lot, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.27 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow a farmers market in the Center Business District. On the basis of the above findings and criteria, the Board finds that the proposed use, as conditioned and limited herein, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.28 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design and parking spaces requirements, but that a waiver of certain design and parking spaces requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances justifying the reduction in the number of required parking spaces and design requirements of the By-Law, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Review Special Permit amendment under Section 7.4 of the By-Law and Section 4.2 of Major Project Site Plan Special Permit No. 2009-06, dated November 17, 2009, amended March 2, 2010, November 16, 2010, November 16, 2010, June 21, 2011, May 1, 2012, April 25, 2017, May 1, 2018, May 20, 2020, March 2, 2021, December 21, 2021, July 12, 2022 and May 16, 2023; (2) the requested Special

Permit under Section 3.2.2 of the Needham By-Law for a farmers market in the Center Business District; (3) the requested Special Permit under Section 3.2.2 of the By-Law for more than one use on a lot; and (4) the requested Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the off-street parking requirements of Sections 5.1.2 (Required Parking) and 5.1.3 of the By-Law (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Commissioner shall not issue any building permit nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

2.1 No Plan Modifications.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.23 hereof.
- 3.1 The conditions and limitations set forth in Major Project Site Plan Review Special Permit No. 2009-06, issued to Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, dated November 17, 2009 and amended March 2, 2010, November 16, 2010, November 16, 2010, June 21, 2011, May 1, 2012, April 25, 2017, May 1, 2018, May 20, 2020, March 2, 2021, December 21, 2021, July 12, 2022 and May 16, 2023, as further amended by this Amendment are ratified and confirmed.
- 3.2 The Board approves the use by Needham Farmers Market of a farmers market on a small portion of the Town Common and Garrity's Way, as shown on the Plan from the first Sunday of June to the last Sunday in October.
- 3.3 The hours of operation shall be limited to four hours every Sunday, opening at 11:00 a.m. and closing at 3:00 p.m. from June through October.
- 3.4 The operation of the farmers market on a small portion of the Town Common and Garrity's Way, Needham, Massachusetts shall be as described in Sections 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.15, 1.17, 1.18, and 1.19 of this Decision and as further described under the support materials provided under Exhibits 2, 3, 4, 5, 6 and 7 of this Decision.
- 3.5 The maximum number of vendors at any given time shall not exceed seventeen (17).

- 3.6 In addition to the vendors, up to four (4) tables, booths or canopies may be available for the Community Farm, other Needham nonprofit organizations, artists, artisans, musicians and the Needham Farmers Market Manager.
- 3.7 The seventeen (17) vendors shall be located a small portion of the Town Common and Garrity's Way, all as shown on the plan detailed in Exhibit 3. Nothing from the Market will be located outside of the area shown on said plan.
- 3.8 At least seventy-five percent (75%) of all vendors shall sell fresh produce and other food products from booths, tables, or other temporary structures.
- 3.9 In addition to vendors, the Needham Farmers Market may provide up to four (4) tables, booths or canopies for use by nonprofit corporations or organizations and local artists or artisans. Selling by such groups may occur at no more than four (4) tables and shall be restricted to the small portion of the Town Common and Garrity's Way as shown on the Plan.
- 3.10 All food vendors shall obtain food permits from the Needham Board of Health unless excluded by State or Local regulations. All applicable State and Local Health regulations shall be met. Any ice used at the site shall be disposed of at a location approved by the Board of Health and in compliance with Board of Health and Town regulations. Disposal of ice within the Town's drainage system shall not be permitted.
- 3.11 Sale of alcoholic beverages by Needham Farmers Market vendors shall be prohibited. The drinking of alcoholic beverages on the Town Common and Garrity's Way where the farmers market is located shall be prohibited.
- 3.12 Set-up time shall begin no earlier than 9:00 a.m., two hours before the start of the market and break down time shall last no longer than two hours after the market closes at 5:00 p.m. During setup and breakdown, vendors may use parking spaces on Chapel Street and 2 spaces on Highland Avenue to unload and load if the spaces are available. The spaces shall not be reserved for this purpose, but rather utilized if vacant.
- 3.13 The special permit and parking waivers granted herein are specifically premised upon the special characteristics of the farmers market in Garrity's Way and the recognition that Town Hall is closed on Sunday and not utilizing the subject parking spaces. In the event of any change in the use permitted hereunder which would result in a greater parking demand, further site plan review will be required, and the Planning Board shall be entitled to evaluate the parking demand of the building as a whole.
- 3.14 Due diligence must be exercised at all times to avoid excessive off-site parking traffic, tie-ups and unnecessary noise and congestion.
- 3.15 Needham Farmers Market vendors and patrons shall be directed to park in the Chapel Street Municipal parking Lot. The musicians may be located on Garrity's Way in the area designed for use by the farmers market.
- 3.16 Free musical entertainment from individuals or small groups at the farmers market, such as flute, fiddle or guitar players, may be utilized. Any required permits from the Board of Selectmen shall be obtained. Amplification, if any, shall be limited and no sound shall extend beyond Garrity's Way. In the event of any complaint or issue regarding the sound,

volume or amplification, the Planning Board shall retain jurisdiction to reevaluate the authorization for musical entertainment provided by this Decision.

- 3.17 Vendors shall be permitted to use the restrooms of Bagel's Best, Hearth Pizzeria, and the Charles River YMCA. If vendors at any time are no longer allowed or able to use these restrooms, the Petitioner shall find other suitable arrangements and notify the Planning Board.
- 3.18 All trash and waste shall be confined to the site and shall be removed from the site promptly during the breakdown timeframe. No trash or waste shall be left on the site at the end of the breakdown at 5:00 p.m. The Petitioner shall also examine the vicinity adjacent to the market area and shall be responsible for the cleanup of any market trash or waste inadvertently left by patrons in that location. During the operation of the farmers market, trash receptacles shall be provided for the use of patrons.
- 3.19 This Special Permit to operate a farmers market at Garrity's Way is issued to Needham Farmers Market, Inc., 227 Eliot Street, Ashland, MA, 01721 and Town of Needham, 1471 Highland Avenue, Needham, MA and may not be transferred, set over, or assigned by Needham Farmers Market, Inc. to any other person or entity without the prior written approval of the Board following such notice and hearing, if any as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.20 The Town of Needham has agreed to allow the Needham Farmers Market to use a small portion of the Town Common and Garrity's Way for the operation of a farmers market on Sunday afternoons from Sunday, June 16, 2024 through the Sunday, October 27, 2024. This is pursuant to a License Agreement dated January 10, 2024 detailed under Exhibit 2 of this Decision. This approval for Major Project Site Plan Special Permit Amendment is for permission to operate the farmers market annually on Sunday afternoons from June to October, pursuant to a fully executed License Agreement for each season with the Town of Needham through the Town Manager's Office or designee and the conditions of this Decision. No further approval from the Planning Board will be required unless the NFM wishes to alter conditions of this Decision.
- 3.21 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commission or other agencies, including, but not limited to the Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.22 The Petitioner, by accepting this Approval, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.23 Violation of any of the conditions of this Decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of violation of any conditions of this Decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Commissioner

to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this Decision including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Decision if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site improvements, which are the subject of this petition. All construction to be conducted on site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend or supplement, this Decision and to take other action necessary to determine and ensure compliance with the Decision.
- 4.3 This Decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This special permit is subject to a fully executed License Agreement for each season with the Town of Needham through the Town Manager's Office or designee for the continued use of Garrity's Way including the Petitioner's request for specific dates and times of operation at the site and the conditions of this Decision.
- 4.7 This Decision shall be recorded in the Norfolk District Registry of Deeds. This Decision shall not take effect until (1) a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after this Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied and (2) this Decision is recorded with Norfolk District Registry of Deeds, and (3) the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

