



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

500 Dedham Ave
Needham, MA 02492
781-455-7500

DECISION

May 18, 2021

PLANNING

Major Project Site Plan Review Special Permit
WELL LCB Needham Landlord LLC, c/o LCB Senior Living
SPMP No. 2021-01

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts of 2020)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of WELL LCB Needham Landlord LLC, c/o LCB Senior Living, 3 Edgewater Drive, Suite 101, Norwood, MA, 02062 (hereinafter the Petitioner), for property located at 100-110 West Street, Needham, MA. WELL LCB Needham Landlord LLC, the developer and operator of the property at 100 West Street, is a joint venture between LCB Senior Living, LLC and Welltower, Inc., which owns the property through HCRI Massachusetts Properties Trust II. The property is shown on Assessor's Map No. 63 as Parcel 37 containing a total of 4.298 acres in the Avery Square Business, Single Residence B and Avery Square Overlay Zoning Districts.

This Decision is in response to an application submitted to the Board on March 11, 2021 by the Petitioner for a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and associated special permits.

The requested Major Project Site Plan Review Special Permit would, if granted, permit the Petitioner to redevelop the property to include an 83 unit assisted living and Alzheimer's/memory care facility and 72 independent living apartment units (9 affordable). The existing 3 story brick building is proposed to remain. The existing footprint of the building is not proposed to change and a partial fourth story will be added to create 10 of the proposed 72 independent living apartments. The parking lot to the south of the building will remain unchanged except for selected new landscaping and the parking lot west of the building and adjacent to the railroad right of way will be modified slightly, including selected new landscaping.

In accordance with the By-Law, Section 7.4, a Site Plan Review Special Permit is required. In accordance with the By-Law, Section 1.4.6, a Special Permit is required, if applicable, for the alteration of a non-conforming structure. The structure is a legally pre-existing non-conforming structure as to the requirements of Sections 4.4.8.4 and 4.4.9. In accordance with the By-Law, Section 3.15.3.2 (b), (c), and (d), a Special Permit is required to allow the following uses allowed in the Avery Square Overlay Zoning District by Special Permit: (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities; (c) Independent Living Apartments; and (d) Buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses. In accordance with the By-Law, Sections 5.1.1.5 and 5.1.1.7, a Special Permit is required to waive strict adherence to the off-street parking requirements of Section 5.1.3 of the By-Law, with respect to subsections (h) (parking space layout) and (i) (width of maneuvering aisle).

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, Jeanne S. McKnight on Tuesday, April 20, 2021 at 7:20 p.m. via remote meeting using Zoom ID 826-5899-3198. Board members Jeanne S. McKnight, Martin Jacobs, Paul S. Alpert and Adam Block were present throughout the April 20, 2021 proceedings. 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 Site Plan Review completed by the applicant dated March 11, 2021.
- Exhibit 2 - Secretary's Certificate.
- Exhibit 3 - Two letters from Evans Huber Attorney, dated March 3, 2021 and March 4, 2021.
- Exhibit 4 - Traffic Impact Study entitled "The Residence at Carter Mill, 100-110 West Street, Needham, MA", prepared by McMahon Associates, Inc., 120 Water Street, 4th Floor, Boston, MA, dated February, 2021.
- Exhibit 5 - Appendix for Traffic Impact Study, entitled "The Residence at Carter Mill, 100-110 West Street, Needham, MA", prepared by McMahon Associates, Inc., 120 Water Street, 4th Floor, Boston, MA, dated February, 2021.
- Exhibit 6 - Plan set entitled "Site Development Plan for The Residence at Carter Mill," prepared by Kelley Engineering Group, 0 Campanelli Drive, Braintree, MA, consisting of 6 sheets: Sheet 1, Cover Sheet, dated January 29, 2021; Sheet 2, entitled "Existing Conditions Plan," dated January 29, 2021; Sheet 3, entitled "Layout and Zoning Plan," dated January 29, 2021; Sheet 4, entitled "Grading Plan," dated January 29, 2021; Sheet 5, entitled "Detail Sheet," dated January 29, 2021; Sheet 6, no title, showing photometrics, dated January 29, 2021.
- Exhibit 7 - Plan set entitled "The Residence at Carter Mill," prepared by The Architectural Team, consisting of 11 sheets: Sheet 1, entitled "Proposed Aerial View," dated January 29, 2021; Sheet 2, entitled "First Floor Plan," dated January 29, 2021; Sheet 3, entitled "Second Floor Plan," dated January 29, 2021; Sheet 4, entitled "Third Floor Plan," dated January 29, 2021; Sheet 5, entitled "Fourth Floor Plan," dated January 29, 2021; Sheet 6, entitled "East Elevation (Highland Ave)," dated January 29, 2021; Sheet 7, entitled "North Elevation A & B (West Street and from West Street Parking Lot)," dated January 29, 2021; Sheet 8, entitled "West Elevation," dated January 29, 2021; Sheet 9, entitled "South Elevation," dated January 29, 2021; Sheet 10, entitled "Building Sections," dated January 29, 2021; Sheet 11, entitled "Proposed Elevation Materials," dated January 29, 2021.
- Exhibit 8 - Plan set entitled "The Residence at Carter Mill," prepared by The Architectural Team, consisting of 11 sheets: Sheet 1, entitled "Proposed Aerial View," dated January 29, 2021; Sheet 2, entitled "First Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 3, entitled "Second Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 4, entitled "Third Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 5, entitled "Fourth Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 6, entitled "East Elevation (Highland Ave)," dated January 29, 2021; Sheet 7, entitled "North Elevation A & B (West Street and from West Street Parking Lot)," dated January 29, 2021; Sheet

8, entitled "West Elevation," dated January 29, 2021; Sheet 9, entitled "South Elevation," dated January 29, 2021; Sheet 10, entitled "Building Sections," dated January 29, 2021; Sheet 11, entitled "Proposed Elevation Materials," dated January 29, 2021.

- Exhibit 9 - Plan set entitled "The Residence at Carter Mill, Landscape Permit Plans," prepared by the Hawk Design Inc., Sagamore, MA, consisting of 12 sheets: Sheet 1, Cover Sheet; Sheet 2, Sheet L1.0, entitled "Landscape Master Plan," dated January 29, 2021, revised February 24, 2021; Sheet 3, Sheet L2.1, entitled "North Planting Plan," dated January 29, 2021, revised February 24, 2021; Sheet 4, Sheet L2.2, entitled "Central Planting Plan," dated January 29, 2021, revised February 24, 2021; Sheet 5, Sheet L2.3, entitled "South Planting Plan," dated January 29, 2021, revised February 24, 2021; Sheet 6, Sheet L2.4, entitled "West Buffer Planting Plans," dated January 29, 2021, revised February 24, 2021; Sheet 7, Sheet L3.1, entitled "North Materials Plan," dated January 29, 2021, revised February 24, 2021; Sheet 8, Sheet L3.2, entitled "Building Arrival & Resident Courtyard Materials Plan," dated January 29, 2021, revised February 24, 2021; Sheet 9, Sheet L3.3, entitled "Assisted Living Entrance Materials Plan," dated January 29, 2021, revised February 24, 2021; Sheet 10, Sheet LD 1, entitled "Plan Schedule and Planting Details," dated January 29, 2021, revised February 24, 2021; Sheet 11, Sheet LD 2, entitled "Planting Notes," dated January 29, 2021, revised February 24, 2021; Sheet 12, Sheet LD 3, entitled "Construction Details," dated January 29, 2021, revised February 24, 2021.
- Exhibit 10 - Stormwater Management Report, entitled "The Residence at Carter Mill, 100-110 West Street, Needham, MA, prepared by Kelley Engineering Group, 0 Campanelli Drive, Braintree, MA, dated February 25, 2021.
- Exhibit 11- Plans stamped approved by Design Review Board dated February 22, 2021.
- Exhibit 12 - Email from the Village Club, Board of Directors, dated April 15, 2021.
- Exhibit 13 - Interdepartmental Communication (IDC) to the Board from Chief Dennis Condon, Needham Fire Department, dated March 10, 2021; IDC to the Board from Chief John Schlittler, Needham Police Department, dated April 14, 2021; IDC from Thomas Ryder, Assistant Town Engineer, dated April 14, 2021; IDC to the Planning Department from Tara Gurge, Needham Health Department, dated March 22, 2021.

Exhibits 1,2, 3, 4, 5, 6, 8, 9, and 10 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings, the Board found and concluded that:

- 1.1 The subject property is located at 100-110 West Street, Needham, MA, at the corner of Highland Avenue and West Street in the Avery Square Business District and the Avery Square Overlay District, with a portion of the property located in the Single Residence B Zoning District. The property is shown on Assessor's Map No. 63 as Parcel 37 containing a total of 4.298 acres. The property is presently owned by the HCRI Massachusetts Properties Trust II.

- 1.2 The property is currently vacant and is improved by a three-story brick building of approximately 186,000 square feet, outdoor parking areas to the south and west of the building and an indoor parking area. Most recently, until 2017, the site was occupied by Avery Crossing, a 60 unit assisted living/memory care facility, Avery Manor, a 142-bed skilled nursing facility, and medical offices comprising approximately 8,308 square feet.
- 1.3 The Petitioner proposes to redevelop the property for a 155-unit facility comprised of 72 independent living apartment units (96 bedrooms), 55 regular assisted-living units (66 beds) and 28 assisted-living units (30 beds) specializing in Alzheimer's and other memory loss related conditions. 9 of the 72 independent living apartment units will be affordable units as defined in Section 1.3 of the By-Law. 13 of the 83 assisted living units will have two beds in them, for a total of 96 assisted living unit beds.
- 1.4 The existing 3 story brick building will remain. The existing footprint of the building will not change and a partial fourth story will be added to create 10 of the proposed 72 independent living apartments. The building will contain approximately 203,120 square feet including the parking garage which comprises 13,900 square feet at completion.
- 1.5 The project will include 149 on-site parking spaces including 34 interior garage spaces and 115 exterior spaces together with associated landscaping, driveways and other improvements. Access to and from the site will continue to be provided via two existing full-access driveways, one on West Street and one on Highland Avenue. The parking lot to the south of the building will remain unchanged except for selected new landscaping and the parking lot west of the building and adjacent to the railroad right of way will be modified slightly, including selected new landscaping.
- 1.6 As indicated in the Zoning Table shown on the Plan, the lot conforms to zoning requirements as to area and frontage. As indicated in the Zoning Table shown on the Plan, the proposed building will comply with all applicable dimensional and density requirements of the Avery Square Business District and the Avery Square Overlay District namely, front, side and rear setback, maximum building height, maximum number of stories, and floor area ratio with one noted exception. By-law Section 4.4.8.4 requires a 50-foot building setback from a residential district boundary. The existing structure is set 33 feet from the noted residential district and is a legal pre-existing non-conforming structure as to the requirements of Section 4.4.8.4.
- 1.7 The project is comprised of the following: 72 independent living apartment units (96 bedrooms) and 83 assisted living units (total of 96 beds). Twenty-eight of the assisted living units will specialize in Alzheimer's and other memory loss related conditions. The maximum number of employees at the site on the largest shift will be 58.
- 1.8 Under the By-Law, Section 5.1.2, the parking requirement for the project is 149, calculated as follows: a) 72 independent living units x 1.0 spaces per unit equals 72 spaces, plus b) 96 assisted-living beds x 0.5 spaces equals 48 spaces, plus c) 58 employees at the largest shift at 1 space per two employees equals 29 parking spaces. A total of 149 spaces are provided on site (115 exterior parking spaces and 34 garage parking spaces). Further 28 parallel parking spaces are available along Highland Avenue adjacent to the property that can be counted as off-street parking pursuant to By-Law Section 5.1.1.7 for a total parking supply of 177 spaces.
- 1.9 The project complies with all the parking area design criteria set forth in Section 5.1.3 except that the Petitioner is seeking a waiver from Sections 5.1.3(h), and 5.1.3 (i). The Petitioner is seeking a waiver from Section 5.1.3(h) (Parking Space Layout) which requires

that all parking areas be designed so that each motor vehicle may proceed to and from its parking space without requiring the movement of any other vehicle and proposes to locate 5 tandem parking spaces within the parking garage. The Petitioner is further seeking a waiver from Section 5.1.3(i) (Maneuvering Aisle Width) which requires a minimum maneuvering aisle width of twenty-four feet for 90-degree parking spaces and proposes a width of 16 to 18 feet within the parking garage. Existing column to column width spacing in the parking garage currently precludes compliance with this condition

- 1.10 McMahan Associates, Inc., conducted a Traffic Impact Study to determine the traffic impacts associated with the construction of the proposed senior assisted living and memory care /independent living facility (Exhibit 4). The study reviewed existing traffic operating parameters on key roadways and intersections, estimated the anticipated traffic volume increases as a result of the proposed project, and analyzed the projects traffic-related impacts. A detailed analysis of traffic operations during the weekday morning and weekday afternoon peak hours, when the combination of adjacent roadway volumes and project trips would be expected to be the greatest was provided. The study also reviewed the previous on-site uses and their impacts to traffic and parking within the study area relative to the proposed project. Based on the analysis of the proposed project and a review of the previous land use, the proposed project was estimated to have a lesser impact on study area traffic and to require less parking than both the previous land use and the proposed on-site parking supply. The proposed project was further shown to have a negligible impact on the area roadways and intersections.
- 1.11 The Petitioner appeared before the Design Review Board on February 22, 2021 and obtained approval of the project.
- 1.12 The Board finds that the project incorporates as many green building standards as practical, given the type of building and proposed use. The Petitioner has committed to tracking the Leadership in Energy & Environmental Design (LEED) criteria, and to show that it has met (except for good cause, including but not limited to the limitations imposed by the existing building) the LEED "Silver" standard for the project by submitting to the Board prior to the issuance of the building permit the checklist prepared by the project architect itemizing the LEED criteria for the proposed building and by submitting to the Board prior to issuance of the occupancy permit a copy of the project architect's affidavit certifying project compliance (except for good cause, including but not limited to the limitations imposed by the existing building) with the LEED "Silver" standard for the project.
- 1.13 The facility will have a minimal impact on neighboring streets. Adequate parking has been provided for staff, deliveries, visiting professionals, family and friends of residents.
- 1.14 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 site has been designed to ensure that there will be no off-site drainage impacts. A drainage system exists on site. The drainage system will ensure that peak storm generation levels will remain unchanged. The proposed site layout plans were presented to the Engineering Department and, as set forth more fully in the Stormwater Management Report filed as part of this Application, it was agreed the proposed project is exempt from the Needham Stormwater Bylaw.

An extensive landscape plan has been developed for screening and enhancing the existing site. Noise and visual impacts have been minimized by locating the proposed 4th floor well set back from the north, east, and south sides of the building, which in many places is set back from the façade of the building further than the By-Law requires and, overall, occupies a smaller percentage of the existing roof area than the By-Law allows. The neighbors to the west will be protected by means of the existing buffering provided by a combination of existing trees and vegetation, new plantings, and the MBTA rail lines.

The lighting system for the project has been designed to fully comply with the Town of Needham lighting requirements and will consist of decorative cut off fixtures on low poles, as well as bollards to provide illumination for pedestrian walkways on site.

The Design Review Board has reviewed and approved the landscaping plan and the exterior lighting plan.

- 1.15 The 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 adequately provided for. Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, and the proper location of driveway openings in relation to traffic and to adjacent streets, has been assured. As shown on the Plan, the project has been designed to ensure that there will be safe vehicular and pedestrian circulation throughout the site. The access to and egress from the property will be via existing driveway openings off West Street and Highland Avenue that will remain and provide access to the site. Sidewalks exist on both West Street and Highland Avenue that connect to the sidewalks on the site. This allows for easy pedestrian access to the site.
- 1.16 The arrangement of parking and loading spaces in relation to the proposed uses of the premises is adequate. Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been achieved. The proposed exterior parking area complies with the By-Law requirements for number of spaces, illumination, loading, parking space size, location, design and number of handicap spaces, width of maneuvering aisles, setbacks, and landscaping. The parking is distributed throughout the site to provide convenience for employees and visitors. With respect to the interior parking, Special Permits are requested for parking space layout for certain tandem spaces, and for the aisle width in one portion of the garage. Both conditions have existed for many years.
- 1.17 Adequate methods for disposal of refuse and waste will be provided. The site has been designed such that adequate methods of disposal of refuse resulting from the uses permitted on the site have been assured. A dumpster enclosure is provided adjacent to the loading area west of the building. The dumpster enclosure will be screened by means of a fence. Refuse will be removed from the site by a licensed hauler.
- 1.18 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area are in compliance with other requirements of this By-Law and has been adequately addressed by this project. The matters to be considered by this Board in connection with relationship of structures and open spaces to the natural landscape, existing buildings, and other community assets in the area, have been addressed, and apart from the special permits requested, the project complies with all other requirements of the By-Law. The existing building is surrounded by existing commercial buildings to the North, East, and West ranging in size from one story to multi-story buildings, and residential homes to the South. The footprint of the existing building will remain unchanged, and the relatively minor façade changes have been designed to maintain

the historic character of the existing building. The addition of the fourth floor on a portion of the building is harmonious with the design of this building and the nearby commercial buildings. There is a natural landscape buffer which will be maintained to the South of the site. To the West of the site are a natural landscape buffer, which will be enhanced by the proposed landscaping plan, as well as the existing MBTA railroad right-of-way. The Senior Center for the Town of Needham is within walking distance of the property. The Design Review Board has reviewed and approved all proposed changes to the exterior of the building, as well as the proposed new fourth floor.

- 1.19 The project will not have an adverse affect 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 is expected to have minimal impacts on Town resources due to the nature of the use. It is a clean, quiet, low impact use. The project has been designed to limit adverse impacts to the Town resources as follows: The project will connect to the Town's water system that is located on Highland Avenue. The Petitioner met with the Engineering Department and there were no concerns raised regarding water pressure and flow for this area of Town. The project will maintain the existing sewer connections to the Town's sewer system by means of the connections to the sewer main located on Highland Avenue. The proposed site layout plans were presented to the Fire Department prior to finalizing the layouts and the Fire Department was satisfied with the proposed circulation. Finally, as shown in the Traffic Impact Analysis submitted with this application, the project is expected to have a minimal impact on vehicle trips and level of service on Highland Avenue and West Street during peak hours, even when compared to no-build conditions, and is expected to generate less traffic than the prior use of the site.
- 1.19 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted in the Avery Square Overlay District, if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds that 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, to comply with all applicable By-Law requirements, to have minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.
- 1.20 Under Section 1.4.6 of the By-Law, a lawful pre-existing nonconforming structure may be structurally altered only pursuant to a special permit issued by the Board pursuant to Section 7.5.2 provided that the Board determines such alteration would not be substantially more detrimental to the neighborhood than the existing non-conforming structure. On the basis of the above findings and criteria, the Board finds that the proposed alteration, 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 existing non-conforming structure nor to be more detrimental to the neighborhood than the existing non-conforming structure.
- 1.22 Under Section 3.15.3.2 (b), (c), and (d) of the By-Law, a special permit to operate assisted living and/or Alzheimer's/memory loss facilities, independent living apartments, and buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District may be granted in the Avery Square Overlay District if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds that the proposed development Plan, 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, to have minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.

- 1.23 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.3 of the By-Law (Off-Street Parking Requirements) more specifically, in Sections 5.1.3(h) and 5.1.3(i), as further described in Section 1.9 above, may be granted provided the Board finds that owing to special and unique circumstances, the particular use, structure or lot does not warrant the application of certain design requirements. On the basis of the above findings and conclusions, the Board finds that there are special and unique circumstances justifying the waiver of the above-noted requirements, 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 4-0 to GRANT (1) the requested Major Project Site Plan Review Special under Section 7.4 of the By-Law, (2) the requested Special Permit under Section 1.4.6 of the By-Law for the alteration of a lawful pre-existing non-conforming structure, (3) the requested Special Permit under Section 3.15.3.2 (b), (c), and (d) of the By-Law, to operate assisted living and/or Alzheimer's/memory loss facilities, independent living apartments, and buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, and (4) the requested Special Permit under Section 5.1.1.5, to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan Design Requirements) of the Zoning By-Law, more specifically, in Section 5.1.3(h) to waive the parking space layout standard which requires that all parking areas be designed so that each motor vehicle may proceed to and from its parking space without requiring the movement of any other vehicle and to approve in the alternative 5 tandem parking spaces within the parking garage as shown on the Plan, and in Section 5.1.3(i), to waive the maneuvering aisle width standard which requires a minimum maneuvering aisle width of twenty-four feet for 90-degree parking spaces and to approve in the alternative a maneuvering aisle width of 16 to 18 feet within the parking garage as shown on the Plan; subject to 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 Inspector 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 Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector 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 Inspector to the Board prior to the issuance of a Building Permit.

- 2.0 The Plan shall be modified to show a landscape screen around the generator.

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 3.42 hereof.

- 3.1 This permit is issued for the operation of a 155-unit facility comprised of 72 independent living apartment units (96 bedrooms), 55 regular assisted-living units (66 beds) and 28 Alzheimer's related assisted-living units (30 beds) specializing in Alzheimer's and other memory loss related conditions. 9 of the 72 independent living apartment units shall be affordable independent living apartment units as defined in Section 1.3 of the By-Law. Notwithstanding the above, the Petitioner may reallocate the 83 assisted living unit beds to either the regular assisted living classification or the Alzheimer's assisted living classification as authorized under Section 3.2 below.
- 3.2 No administrative use, other than that needed for operation of the independent living units, regular assisted living units, Alzheimer's assisted living units or other community activity incidental to the facility being conducted on the site, shall be allowed.
- 3.3 The nine affordable independent living apartment units in the project shall be as defined in Section 1.3 of the By-Law. Said units shall comply with all applicable provisions of the Department of Housing and Community Development's (DHCD) Chapter 40B Guidelines, dated February 22, 2008, as amended, and shall be eligible for the Chapter 40B Subsidized Housing Inventory as "Local Action Units" under the DHCD Local Initiative Program. It shall be the Petitioner's responsibility to prepare any and all applications, exhibits, and supporting documentation that DHCD requires in order to approve the unit for the Subsidized Housing Inventory and to record a DHCD-approved affordable housing restriction with the Norfolk Registry of Deeds or the Land Court. No certificate of occupancy shall be issued for the project until the Petitioner provides evidence that such restriction has been so recorded.
- 3.4 Subject to DHCD approval, the Petitioner shall set aside up to 70% of the affordable units as local preference units, i.e. offered first to Needham residents or persons with a connection to the Town, in accordance with a local preference policy determined by the Select Board consistent with DHCD directives and applicable state and federal laws. The Town will provide reasonable assistance to the Petitioner in designing an affirmative marketing plan for the Affordable Units. The Town may delegate oversight of an affirmative marketing plan and local preference selection procedures to another organization deemed appropriate by the Board to represent the Town interests. All costs associated with preparing and implementing the affirmative marketing plan and local preference procedures shall be paid by the Petitioner.
- 3.5 The Town of Needham intends to enter into an agreement with a person or entity selected by the Town Manager and approved by DHCD to monitor the Petitioner's compliance with the affordability restriction on an annual basis and to provide an annual report of its monitoring to the Town (the "Monitoring Agent"). The Petitioner shall pay for the cost of the Monitoring Agent pursuant to a separate agreement between the Town and the Petitioner. The Petitioner shall cooperate with the monitoring agent by providing all documentation necessary to demonstrate that the affordable housing units comply with Section 1.3 of the Zoning By-Law and this Decision and are occupied by income-eligible households.
- 3.6 The building, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan, as modified by this Decision. Any changes, revisions or modifications to the Plan, as modified by this Decision, shall require approval by the Board.

- 3.7 The proposed building and support services shall contain the dimensions and shall be located on that portion of the locus exactly as shown on the Plan, as modified by this Decision, and in accordance with the applicable dimensional requirements of the By-Law. Notwithstanding the above, the Petitioner may revise the floor plans without the need for additional hearings or approvals, provided that the total square footage of the building does not increase, the total number of independent living apartment units does not exceed 72 units (96 bedrooms), the total number of assisted-living units does not exceed 83, and the total number of assisted living beds (whether they be regular assisted living beds or Alzheimer's related assisted living beds) does not exceed 96.
- 3.8 All buildings and land constituting the premises shall remain under a single ownership.
- 3.9 The staffing for the 83 regular assisted living units and Alzheimer's related units shall be limited to 58 employees on-site during the largest shift, including both assisted living employees, and other assisted living affiliated employees.
- 3.10 Sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this Decision, and there shall be no parking of motor vehicles off the locus at any time except in the 28 parking spaces on Highland Avenue adjacent to the property.
- 3.11 In addition to a total of 28 on-street parking spaces on Highland Avenue adjacent to the property that can be counted as off-street parking pursuant to By-Law Section 5.1.1.7, a total of 149 parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this Decision. A total of 34 of these on-site spaces shall be provided on the first-floor parking garage in the building with the remaining 115 on-site spaces to be provided in the surface lots located on the west and south sides of the site. All off-street parking shall comply with the requirements of Section 5.1.3 of the By-Law, except as otherwise waived by this Decision.
- 3.12 All required handicapped parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words "Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed at Owners Expense". The quantity & design of spaces, as well as the required signage shall comply with the M.S.B.C. 521 CMR Architectural Access Board Regulation and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.13 All shift changes shall be staggered, and the Petitioner shall use best efforts to prevent shift changes during the a.m. and p.m. peak-hour traffic periods.
- 3.14 The emergency diesel fueled generator to be installed at the edge of the parking lot along the MBTA right-of-way shall be designed and operated so as to comply with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. The emergency diesel fueled generator shall also be installed and screened as far as practical to minimize the visibility of the emergency generator. The Petitioner shall deliver to the Board for its review and approval plans and specifications of said emergency diesel fueled generator, including sound attenuation components, if necessary together with Petitioner's certification to the Board that said emergency generator has been designed such that when it is operated it will be in compliance with the regulations described above with respect to noise, and screened in accordance with the requirements described above.

- 3.15 Prior to project occupancy, an as-built plan of the emergency generator together with a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Board, available manufacturer's specifications are insufficient to demonstrate compliance with applicable noise standards) shall be submitted to the Board for its review and approval. The sound analysis shall demonstrate compliance with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations.
- 3.16 Normal maintenance and testing of the emergency generator shall be limited to one occurrence per month between the weekday hours of 9:00 a.m. and 5:00 p.m. for a period not to exceed 2 hours. The emergency generator shall not operate more than 300 hours per rolling 12-month period, including the normal maintenance and testing procedure as recommended by the manufacturer and periods when the primary power source for WELL LCB Needham Landlord LLC, has been lost during an emergency, such as a power outage, an on-site disaster or an act of God.
- 3.17 This Special Permit to operate an 155-unit facility as described in this Decision is issued to WELL LCB Needham Landlord LLC, c/o LCB Senior Living, Edgewater Drive, Suite 101, Norwood, Massachusetts. Prior to any change in the entity operating the facility (other than a change to an affiliated entity under common control with WELL LCB Needham Landlord LLC), Petitioner shall provide written notice of the anticipated change to the Board, and the new operating entity shall provide a written statement to the Board, signed by a person who will be responsible for the operations of the facility, that they have read this Decision and acknowledge that the terms hereof are binding on the new entity.
- 3.18 The non-memory care assisted living units may have a small refrigerator, microwave, sink and small convection cook top. The memory care units may have a small refrigerator and sink. If a memory care resident is evaluated and is deemed capable to use a microwave, the Petitioner may allow a microwave in that resident's memory care unit. The Petitioner shall install a charcoal filtration ventilation system for cooking exhaust and shall operate the kitchen without negative impact on the abutting properties from cooking odors.
- 3.19 All utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.20 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if applicable.
- 3.21 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit and any grants of location that are required from the utility companies.
- 3.22 The Petitioner shall secure from the Needham Department of Public Works a Water Main and Water Service Connection Permit per Town requirements.
- 3.23 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges. Sealing of abandoned drainage facilities and abandonment of all utilities shall be carried out per Town requirements.
- 3.24 The Petitioner shall connect the sanitary sewer line only to known sources. All known sources that cannot be identified shall be disconnected and properly sealed.

- 3.25 The construction, operation and maintenance of any subsurface infiltration facility, on-site catch basins and pavement areas, shall conform to the requirements outlined in the Town of Needham Stormwater By-Law.
- 3.26 The Petitioner shall implement the following maintenance plan:
- a. Parking lot sweeping - sweep twice per year; once in spring after snowmelt, and early fall.
 - b. Catch basin cleaning - inspect basins twice per year; in late spring and fall. Clean basins in spring.
 - c. Proprietary Devices - inspect and maintain per manufacturing recommendations.
- 3.27 The maintenance of site and parking lot landscaping shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.28 The Petitioner shall comply with the Public Outreach & Education and Public Participation & Involvement control measures required under NPDES. The Petitioner shall submit a letter to the DPW identifying the measures selected and dates by which the measures will be completed.
- 3.29 All solid waste shall be removed from the site by a private contractor. Snow shall also be removed or plowed by private contractor. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced.
- 3.30 All deliveries and trash dumpster pick up shall occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. The trash shall be picked up no less than two times per week. The dumpster shall be screened with a vinyl fence, which shall be maintained in good condition. The dumpster shall be maintained in a locked condition with the key controlled by management to ensure compliance with the trash removal conditions of this permit. The dumpster shall be emptied, cleaned and maintained to meet Board of Health standards.
- 3.31 All lights shall be shielded and adjusted during the evening hours to prevent any annoyance to the neighbors. The Petitioner shall reduce its parking lot lights during the night and early morning consistent with safety and security concerns. No later than 11:30 p.m, the Petitioner shall reduce the parking lot lights using the lights on the building to shine down and provide basic security. The building lights shall be set at a low light level to prevent any annoyance to the neighbors to the extent reasonable and practicable, consistent with safety and security requirements.
- 3.32 The Petitioner shall track the Leadership in Energy & Environmental Design (LEED) criteria for the project and shall submit to the Board the checklist prepared by the project architect itemizing the LEED criteria as it relates to the proposed building prior to the issuance of the building permit. The Petitioner shall show that it has met (except for good cause, including but not limited to the limitations imposed by the existing building) the LEED "Silver" standard for the Project prior to the issuance of the occupancy permit.
- 3.33 In constructing and operating the proposed building on the locus pursuant to this Special Permit, due diligence shall be exercised, and reasonable efforts shall be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.

- 3.34 Excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the site, shall be removed from the site.
- 3.35 All construction staging shall be on-site. No construction parking shall be on public streets. Construction parking shall be all on site or a combination of on-site and off-site parking at locations in which the Petitioner can make suitable arrangements. Construction staging plans shall be included in the final construction documents prior to the filing of a Building Permit and shall be subject to the review and approval of the Building Inspector.
- 3.36 The following interim safeguards shall be implemented during construction:
- a. The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
 - b. The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site, which require excavation or otherwise pose a danger to public safety.
 - c. The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Inspector and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Highland Avenue and West Street.
 - d. The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Highland Avenue and West Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.37 No building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:
- a. The final plans shall be in conformity with those approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.
 - b. A construction management and staging plan shall have been submitted to the Police Chief and Building Inspector for their review and approval.
 - c. The Petitioner shall deliver to the Board for its review and approval plans and specifications of said emergency diesel fueled generator, including sound attenuation components, if necessary together with Petitioner's certification to the Board that said emergency generator has been designed such that when it is operated it will be in compliance with the regulations described above with respect to noise. The emergency gas generator shall also be installed and screened as far as practical so as to minimize the visibility of the emergency generator. Said plans and certification shall be approved by the Board without the requirement of a public hearing.
 - d. The Board shall have received a copy of the checklist prepared by the project architect itemizing the LEED criteria as it relates to the proposed building as described in paragraphs 1.12 and 3.32.

- e. The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.38 No building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:
- a. An as-built plan, supplied by the engineer of record certifying that the on-site and off-site project improvements were built according to the approved documents, has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site and off-site, in their true relationship to the lot lines. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor.
 - b. There shall be filed with the Building Inspector and Board a statement by the Department of Public Works certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalks and curbing improvements on-site and off-site, have been constructed to the standards of the Town of Needham Department of Public Works and in accordance with the approved Plan.
 - c. There shall be filed with the Board and Building Inspector a Final Construction Control Document signed by a registered architect upon completion of construction.
 - d. There shall be filed with the Board and Building Inspector an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations. Said plan shall be prepared by the landscape architect of record and shall include a certification that such improvements were completed according to the approved documents.
 - e. There shall be filed by the Petitioner an as-built plan of the emergency generator and a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Board, available manufacturer's specifications are insufficient to demonstrate compliance with applicable noise standards). The sound analysis shall demonstrate compliance with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. Said as-built plan and sound level analysis shall be reviewed and approved by the Board without the requirement of a public hearing.
 - f. The Town shall have received a copy of the recorded DHCD-approved affordable housing restriction as described in paragraph 3.3.
 - g. The Board shall have received a copy of the project architect's affidavit certifying project compliance with the LEED "Silver" standard for the project as described in paragraphs 1.12 and 3.32.
 - h. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135%

of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.

- 3.39 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions or other agencies, including, but not limited to, the Board of Selectmen, Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.40 The building or structure authorized for construction by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Inspector.
- 3.41 The Petitioner, by accepting this permit Decision, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, that this information is true and valid to the best of the Petitioner's knowledge.
- 3.42 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 Inspector 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 and off-site improvements, which are the subject of this petition. All construction to be conducted on-site and off-site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this Decision.
- 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.

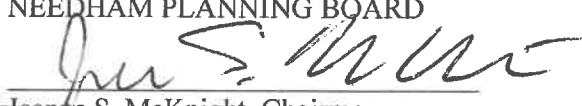
- 4.4 The conditions contained within this Decision are limited to this specific application and are made without prejudice to any further modification or amendment.
- 4.5 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.7 This Site Plan Special Permit shall lapse on May 18, 2023, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to May 18, 2023. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided except for good cause.
- 4.8 This decision shall be recorded in the Norfolk District Registry of Deeds and shall not become effective until the Petitioner has delivered a certified copy of the document to the Board. In accordance with G.L. Chapter 40A, Section 11, this Major Site Plan Special Permit shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time is recorded in the Norfolk District Registry of Deeds and is 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 person exercising rights under a duly appealed Special Permit does so at the risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

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 of the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

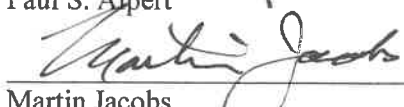
Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

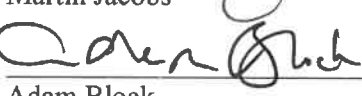
Witness our hands this 18th day of May, 2021.

NEEDHAM PLANNING BOARD


Jeanne S. McKnight, Chairman


Paul S. Alpert


Martin Jacobs

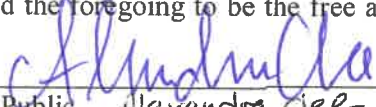

Adam Block

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

May 26, 2021

On this 26 day of May, 2021, before me, the undersigned notary public, personally appeared Martin Jacobs, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.


Notary Public Alexandra Ciel

My Commission Expires: March 18, 2022

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by WELL LCB Needham Landlord LLC, c/o LCB Senior Living, 3 Edgewater Drive, Suite 101, Norwood, MA 02062, for Property located at 100-110 West Street, Needham, MA, has passed,

_____ and there have been no appeals filed in the Office of the Town Clerk or
_____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Inspector
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board
Evans Huber