

# TOWN OF NEEDHAM



## SPECIAL TOWN MEETING WARRANT

MONDAY, OCTOBER 28, 2019

7:30 P.M.

JAMES HUGH POWERS HALL, NEEDHAM TOWN HALL

1471 HIGHLAND AVENUE

Additional information on particular warrant articles will be made available from time to time at [www.needhamma.gov/townmeeting](http://www.needhamma.gov/townmeeting) during the weeks leading up to the Special Town Meeting.

**COMMONWEALTH OF MASSACHUSETTS**

Norfolk, ss.

To either of the constables in the Town of Needham in said County, Greetings:

In the name of the Commonwealth of Massachusetts, you are hereby required to notify the qualified Town Meeting Members of the Town of Needham to meet in the Needham Town Hall on:

**MONDAY, THE TWENTY EIGHTH DAY OF OCTOBER 2019**

At 7:30 in the afternoon, then and there to act upon the following articles:

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**HUMAN RESOURCE ARTICLES**

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**ARTICLE 1:      FUND COLLECTIVE BARGAINING AGREEMENT – NEEDHAM FIRE UNION**

To see if the Town will vote to fund the cost of items contained in a collective bargaining agreement between the Town and the Needham Fire Union by authorizing the Town Manager to transfer a sum necessary to fund the cost items contained in the agreement from the Classification, Performance and Settlements line to the appropriate lines in the Operating Budget for fiscal year 2020; or take any other action relative thereto.

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

PERSONNEL BOARD RECOMMENDS THAT: Recommendation to be Made at Town Meeting

*Article Information:*      *At the time of the printing of the warrant, the parties had not finalized this contract.*

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**FINANCE ARTICLES**

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**ARTICLE 2:      AMEND THE FY2020 SEWER ENTERPRISE FUND BUDGET**

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2020 Sewer Enterprise Fund adopted under Article 19 of the 2019 Annual Town Meeting by deleting the amounts of money appropriated under some of the line items and appropriating the new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From</u>	<u>Changing To</u>
201D	MWRA Assessment	6,460,637	6,399,114

or take any other action relative thereto.

INSERTED BY: Select Board & Finance Committee

FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information: The final MWRA Assessment is \$61,423 lower than the estimate used to set the FY2020 budget, resulting in a decrease in the Enterprise Fund budget.*

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**ARTICLE 3: AMEND THE FY2020 WATER ENTERPRISE FUND BUDGET**

To see if the Town will vote to amend and supersede certain parts of the fiscal year 2020 Water Enterprise Fund adopted under Article 20 of the 2019 Annual Town Meeting by deleting the amounts of money appropriated under some of the line items and appropriating the new amounts as follows:

<u>Line Item</u>	<u>Appropriation</u>	<u>Changing From</u>	<u>Changing To</u>
301D	MWRA Assessment	1,413,150	1,412,709

or take any other action relative thereto.

INSERTED BY: Select Board & Finance Committee  
FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information: The final MWRA Assessment is \$441 lower than the estimate used to set the FY2020 budget, resulting in a decrease in the Enterprise Fund budget.*

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**ARTICLE 4: APPROPRIATE TRANSPORTATION IMPROVEMENT FEES**

To see if the Town will vote to appropriate funds from the Commonwealth Transportation Infrastructure Fund in the amount of \$17,059.20 for the purpose of transportation infrastructure improvements, said sum to be spent under the direction of the Town Manager; or take any other action relative thereto.

INSERTED BY: Select Board  
FINANCE COMMITTEE RECOMMENDS THAT: Article be Adopted

*Article Information: Chapter 187 of the Acts of 2016 established a Commonwealth Transportation Infrastructure Fund. Each Transportation Network Company (such as Uber and Lyft) is assessed \$0.20 per ride to fund transportation improvements. One-half of the amount received from the Fund is to be distributed proportionately to each city and town based on the number of rides that originated in that city or town. The distributed funds must be used to address the impact of transportation network services on municipal roads, bridges and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city or town. Funding for Transportation Improvements in FY2020 will be allocated to pedestrian and bicycle safety initiatives, unless circumstances require otherwise.*

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## ZONING ARTICLES

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### **ARTICLE 5:    **AMEND ZONING BY-LAW – HIGHWAY COMMERCIAL 1 ZONING DISTRICT****

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. Amend Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Industrial:

“HC1 -- Highway Commercial 1”

2. Amend Section 3.2, Schedule of Use Regulations, by adding a new Section 3.2.7 as follows:

“3.2.7 Uses in the Highway Commercial 1 District

3.2.7.1 Permitted Uses

The following uses are permitted within the Highway Commercial 1 District as a matter of right:

- (a) Uses exempt from local zoning control pursuant to M.G.L. Chapter 40A, Section 3.
- (b) Public parks and playgrounds, municipal buildings or uses.
- (c) Retail establishment or combination of retail establishments serving the general public where each establishment contains less than 10,000 square feet of floor area and where all items for sale or rent are kept inside a building.
- (d) Manufacturing clearly incidental and accessory to a retail use on the same premises and the product is customarily sold on the premises.
- (e) Craft, consumer or commercial service establishment dealing directly with the general public.
- (f) Laundry or dry cleaning pick-up station with processing done elsewhere.
- (g) Professional, business or administrative office, but not including any of the following: a medical clinic or Medical Services Building or medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of three or more such professionals (hereinafter “Group Practices”) or physical therapy, alternative medicine practices, wellness treatments, including but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. “Professional” shall include professional medical, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer such professionals (“Non-group Practice”).
- (h) Bank or Credit Union.
- (i) Medical Laboratory or laboratory engaged in scientific research and development and/or experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes.
- (j) Radio or television studio.

(k) Light non-nuisance manufacturing, including, but not limited to, the manufacture of electronics, pharmaceutical, bio-pharmaceutical, medical, robotic, and micro-biotic products, provided that all resulting cinders, dust, flashing, fuses, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed of in a manner so as not to create a nuisance or hazard to safety or health.

(l) Telecommunications facility housed within a building.

(m) Other customary and proper accessory uses incidental to lawful principal uses. Further provided, accessory uses for seasonal temporary outdoor seating for restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter shall be allowed upon minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board or Select Board in accordance with Section 6.9.

(n) More than one building on a lot.

(o) More than one use on a lot.

#### 3.2.7.2 Uses Permitted By Special Permit

The following uses are permitted within the Highway Commercial 1 District upon the issuance of a Special Permit by the Special Permit Granting Authority under such conditions as it may require:

(a) Light-rail train station.

(b) Adult day care facility.

(c) Private school, nursery, or kindergarten not otherwise classified under Section 3.2.7.1 (a).

(d) Retail establishment or combination of retail establishments serving the general public where any establishment contains more than 10,000 but less than 25,000 square feet of floor area and where all items for sale or rent are kept inside a building.

(e) Equipment rental service but not including any business that uses outside storage.

(f) Grocery store provided it does not exceed 25,000 sq. ft. of floor area.

(g) Eat-in or take-out restaurant or other eating establishment except that a lunch counter incidental to a primary use shall be permissible by right.

(h) Veterinary office and/or treatment facility and/or animal care facility, including but not limited to, the care, training, sitting and/or boarding of animals.

(i) Indoor athletic or exercise facility or personal fitness service establishment, which may include outdoor pool(s) associated with such facilities.

(j) External automatic teller machine, drive-up window or auto-oriented branch bank accessory to a bank or credit union permitted under Section 3.2.7.1(h) hereof.

(k) Group Practices as defined in Section 3.2.7.1 and alternative medicine practices, physical therapy, and wellness treatments facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services. Such uses may have customary and proper accessory uses incidental to the lawful principal uses, including but not limited to, pharmacies.

(l) Live performance theater, bowling alley, skating rink, billiard room, and similar commercial amusement or entertainment places.”

3. Amend Section 4.7.1, Specific Front Setbacks, by deleting the following provisions:

“(b) On the easterly side of Gould Street from Highland Avenue northerly to land of the New York, New Haven and Hartford Railroad Company, there shall be a fifty (50) foot building setback line;

(c) On the northerly side of Highland Avenue from Gould Street northeasterly to the property of the Commonwealth of Massachusetts, there shall be a fifty (50) foot building setback line.”

4. Amend Section 4, Dimensional Regulations, by adding a new Section 4.11 Dimensional Regulations for Highway Commercial Districts as follows:

“4.11 Dimensional Regulations for Highway Commercial Districts

4.11.1 Highway Commercial 1

Minimum Lot Area (Sq. Ft.)	Minimum Lot Frontage (Ft.)	Front Setback (Ft.) (1)	Side Setbacks (Ft.) (1) (3)	Rear Setback (Ft.) (1)(3)	Maximum Height (Ft.) (1)	Maximum Lot Coverage (2) (4)	Floor Area Ratio (5) (6)
20,000	100	5	10	10	70	65%	1.00

(1) All buildings shall be limited to a height of 70 feet, except that buildings within 150 feet of Highland Avenue and buildings within 200 feet of Gould Street shall be limited to a height of 42 feet unless the additional height is contained under a pitched roof or recessed from the face of the building in a manner approved by the Planning Board but not to exceed 48 feet in height. Notwithstanding the foregoing, the Planning Board may allow by special permit a maximum height of up to 84 feet except within 150 feet of Highland Avenue and 200 feet of Gould Street. If the height of a building is increased above the height of 42 feet, or 48 feet if under a pitched roof or recessed as aforesaid, the front setback shall be increased to 15 feet and the side and rear setbacks to 20 feet except that, along the MBTA right-of-way the side and rear yard setbacks shall be 10 feet.

Buildings and structures abutting Highland Avenue, Gould Street and/or the layout of Route 128/95 shall be set back at least 20 feet from said streets and said layout. Notwithstanding the location of any building and structures, a 20 foot landscaped, vegetative buffer area shall be required along the aforementioned street frontages and said layout in order to screen the development. Driveway openings, sidewalks, walkways and screened mechanical equipment shall be permitted in the buffer area.

Structures erected on a building having a height of 72 feet or less and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such

structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.

For purposes of clarity, the required building setbacks and allowed envelopes (including setbacks) for allowance of additional height above 42' are shown on the drawings below. The 370 feet shown on the drawings below shall extend a distance of 370 feet measured along the centerline of Highland Avenue from a point opposite the midpoint rounding at the intersection of Highland Avenue and Gould Street to a point 370 feet easterly as shown on a plan entitled "Plan of Land Gould Street, Needham, MA", prepared by Andover Engineering, Inc., dated July 27, 2000, last revised September 20, 2001, recorded in the Norfolk County Registry of Deeds as Plan No. 564 of 2001, Plan Book 489.

Figure 1:

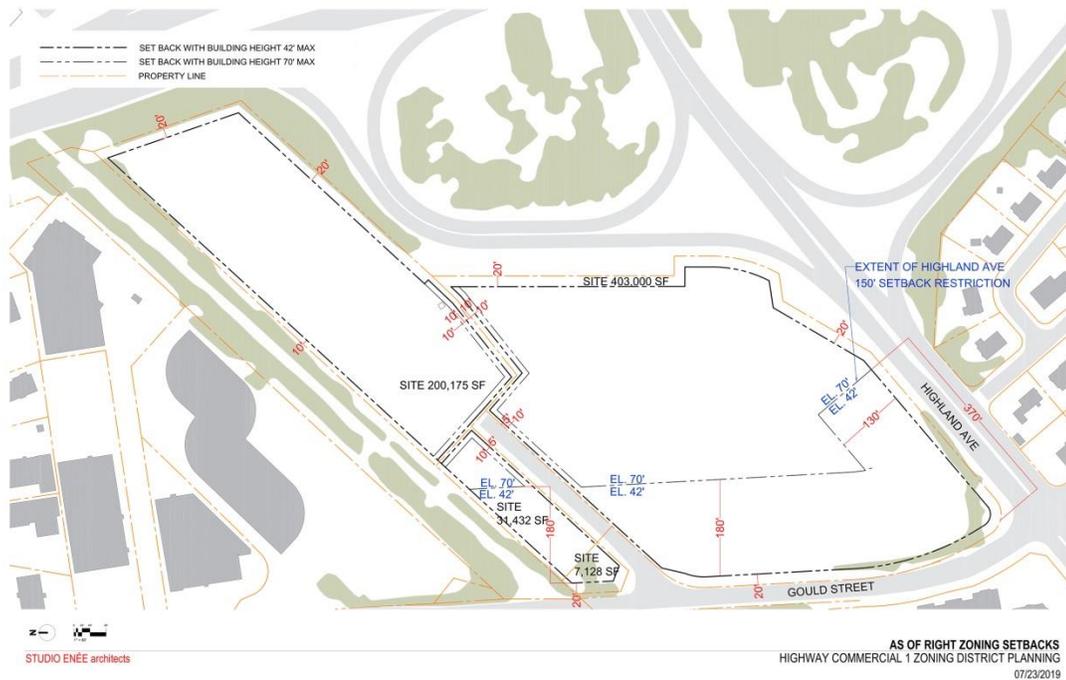
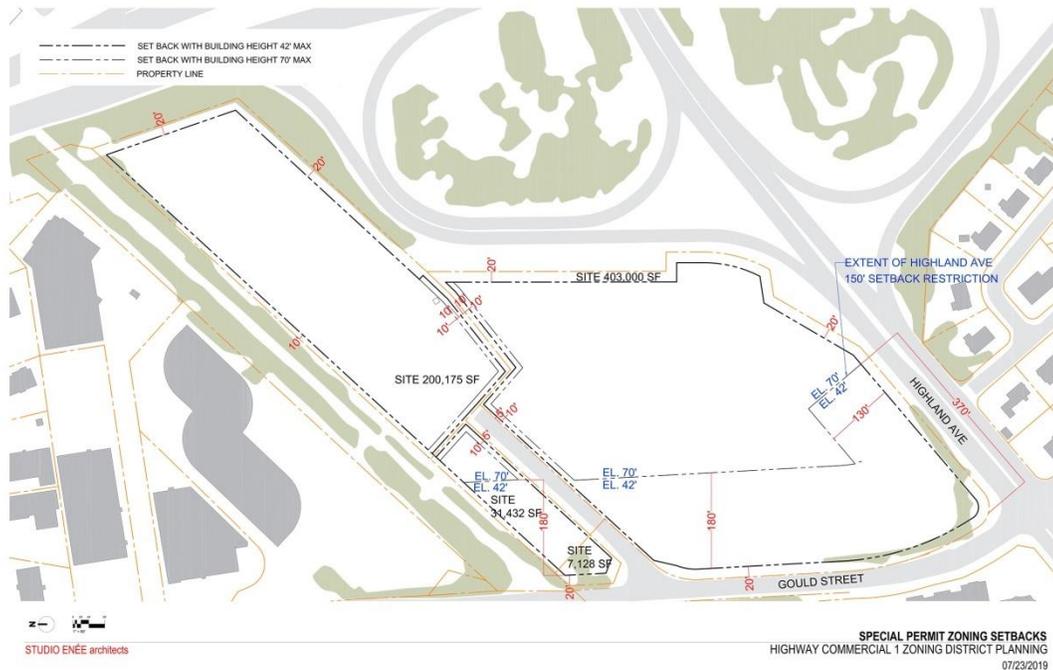


Figure 2:



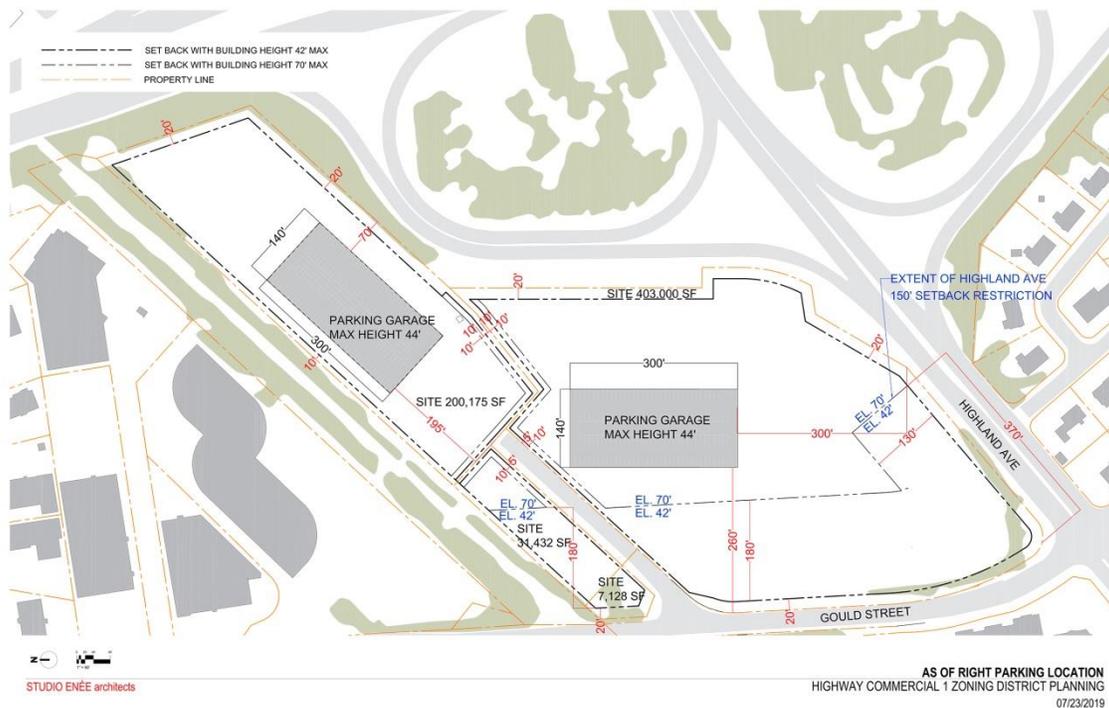
- (2) Maximum lot coverage shall be 65% for all projects. However, if a project is designed such that at least 65% of the required landscaped area immediately abuts at least 65% of the required landscaped area of an adjoining project for a distance of at least 50 feet, the maximum lot coverage may be increased to 75%.
- (3) No side or rear yard setback is required for shared parking structures between adjoining properties, but only on one side of each lot, leaving the other side or rear yards open to provide access to the interior of the lot.
- (4) A minimum of 20% of total lot area must be open space. The open space area shall be landscaped and may not be covered with buildings or structures of any kind, access streets, ways, parking areas, driveways, aisles, walkways, or other constructed approaches or service areas. Notwithstanding the preceding sentence, open space shall include pervious surfaces used for walkways and patios. (Pervious surfaces shall not preclude porous pavement, porous concrete, and/or other permeable pavers.)
- (5) A floor area ratio of up to 1.75 may be allowed by a special permit from the Planning Board. In granting such special permit, the Planning Board shall consider the following factors: the ability of the existing or proposed infrastructure to adequately service the proposed facility without negatively impacting existing uses or infrastructure, including but not limited to, water supply, drainage, sewage, natural gas, and electric services; impact on traffic conditions at the site, on adjacent streets, and in nearby neighborhoods, including, but not limited to, the adequacy of the roads and intersections to safely and effectively provide access and egress; the environmental impacts of the proposal; and the fiscal implications of the proposal to the Town. In granting a special permit, the Planning Board shall also consider any proposed mitigation measures and whether the proposed project's benefits to the Town outweigh the costs and adverse impacts, if any, to the Town.

(6) The calculation of floor area in determining floor area ratio shall not include parking areas or structures.

#### 4.11.2 Supplemental Dimensional Regulations

- (1) Parking structures shall be set back at least 100 feet from Highland Avenue and/or Gould Street.
- (2) Parking structures may have an active ground floor use, such as retail, office, institutional, or display. Structured parking must be located at least 20 feet from adjacent buildings, but may be attached to the building it is servicing if all fire and safety requirements are met.
- (3) Buildings abutting Highland Avenue and/or Gould Street must have a public entrance facing one street on which the building fronts.
- (4) Maximum uninterrupted facade length shall be 200 feet.
- (5) Notwithstanding Section 3.2.7.1(m) and any other provision of this Section 4.11 to the contrary, a parking garage, even if it is for an as-of-right development, may not exceed the parameters, bulk, and location requirements without the issuance of special permit by the Planning Board as shown on the following drawing.

Figure 3



The location may, however, be modified as of right if the parking garage is moved easterly or northeasterly towards Route 128/95.

- (6) All setback, height, and bulk requirements applicable to this Section 4.11 are contained in this Section and no additional requirements occasioned by this district abutting Route 128/95's SRB district shall apply.

#### 4.11.3 Special Permit Provision

The Planning Board may, by special permit, waive any or all dimensional requirements set forth above in this Section 4.11 (including sections 4.11.1 and 4.11.2), by relaxing each by up to a maximum percentage of 25% if it finds that, given the particular location and/or configuration of a project in relation to the surrounding neighborhood, such waivers are consistent with the public good, and that to grant such waiver(s) does not substantially derogate from the intent and purposes of the By-Law. This section does not authorize the Planning Board to waive the maximum height regulations, reduce the 20 foot landscaped buffer area requirement along Gould Street, Highland Avenue and the layout of Route 128/95, reduce the 100 foot garage setback requirement along Gould Street and Highland Avenue, or reduce the 20% open space requirement of Section 4.11.1(4), except as specifically provided in Section 4.11.1(1) for pitched or recessed roofs. (By way of example, a 15' front yard setback could be waived to 11.25' or the 20,000 sq. ft. minimum lot area could be waived to 15,000 sq. ft.)

#### 4.11.4 Special Permit Requirements

In approving any special permit under this Section 4.11, the Planning Board shall consider the following design guidelines for development: (a) The proposed development should provide or contribute to providing pedestrian and neighborhood connections to surrounding properties, e.g., by creating inviting buildings or street edge, by creating shared publicly accessible green spaces, and/or by any other methods deemed appropriate by the Planning Board; (b) Any parking structure should have a scale, finish and architectural design that is compatible with the new buildings and which blunts the impact of such structures on the site and on the neighborhood; (c) The proposed development should encourage creative design and mix of uses which create an appropriate aesthetic for this gateway to Needham, including but not limited to, possible use of multiple buildings to enhance the corner of Highland Avenue and Gould Street, possible development of a landscape feature or park on Gould Street or Highland Avenue, varied façade treatments, streetscape design, integrated physical design, and/or other elements deemed appropriate by the Planning Board; (d) The proposed development should promote site features and a layout which is conducive to the uses proposed; and (e) The proposed development shall include participation in a Transportation Demand Management program to be approved by the Planning Board as a traffic mitigation measure, including but not limited to, membership and participation in an integrated or coordinated shuttle program.”

5. Amend Section 5.1.3, Parking Plan and Design Requirements, by adding at the end of the second sentence of subsection (j) which reads “Such parking setback shall also be twenty (20) feet in an Industrial-1 District” the words “and Highway Commercial 1 District.”
6. Amend Section 7.2.5 of Section 7.2 Building or Use Permit, by adding after the words “Industrial-1 District,” in the first sentence, the words “Highway Commercial 1 District,”.
7. Amend Section 7.4.2 of Section 7.4 Site Plan Review, by adding in the first sentence of the last paragraph, the words “Highway Commercial 1 District,” after the words “Highland Commercial-128,”.
8. Amend Section 7.7.2.2, Authority and Specific Powers (of Design Review Board) by adding after the words “Industrial-1 District,” in the first sentence of the second paragraph, the words “Highway Commercial 1 District,”.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

*Article Information: The Council of Economic Advisors, which was created by the Select Board to evaluate Town-wide economic conditions and make recommendations to promote and encourage new and existing businesses, undertook a review of all Industrial Zoning Districts in 2012, and, after focusing its efforts on three different areas along Route 128, held numerous public meetings with residents, neighbors, public officials, businesses and landowners in 2014 about potential zoning initiatives. As requested during those discussions, the CEA obtained a build-out analysis, a traffic impact report based on that analysis, and elevation drawings to better understand the impact of any proposed development. After examining the results of those reports, the CEA in 2017 reached out again to the various stakeholder groups and presented its preliminary recommendations to upgrade the zoning adjacent to Route 128 in order to make these areas more economically competitive. The Planning Board, having reviewed the proposals from the CEA, determined to move forward on only one area at this time; the area circumscribed by Route 128, Highland Avenue, Gould Street, and the railroad track.*

*The proposed use and dimensional changes to this area, to be rezoned Highway Commercial 1 (“HC1”), are detailed below.*

*The amendments to Section 3.2 detail the uses allowed by right and those by special permit. In addition, by listing the uses rather than using the current somewhat antiquated table of uses, the uses can be clarified and brought up to date. Key changes to the use table include allowing greater retail by right for 10,000 sq. ft. or less (from 5,750 sq. ft.) and by special permit for more than 10,000 sq. ft. and less than 25,000 sq. ft. (more than 5,700 sq. ft.); allowing grocery stores of up to 25,000 square feet by special permit; clarifying medical services allowed by right and by special permit (as was done in the Needham Crossing zoning); standardizing the medical laboratory and research and development defined uses; allowing by right more than one use and more than one building on a lot; changing theaters, bowling alleys, skating rinks, billiard rooms and similar commercial amusement or entertainment places from by right to special permit; deleting indoor movie theaters from allowed uses; precluding single family detached dwellings from allowed uses; and precluding certain industrial uses in the district including, inter alia, commercial garages, contractor’s yards, lumber or fuel establishments, Medical Clinics, and previously allowed manufacturing and industrial services. The purpose of the use changes is: (1) to insure that uses allowed by right or by special permit will maximize the economic value of redevelopment to the Town; and (2) to subject certain uses presently allowed by right to the special permit process so that they may be properly vetted by the permit granting authority as to impacts and mitigation.*

*The amendments to Section 4 would create the dimensional requirements for the new Highway Commercial 1 zone. The proposal under new Section 4.11 would change the front setback to 5 feet unless the building height exceeds 42 feet, in which case the front setback increases to 15 feet, or the building sits on Highland Avenue, Gould Street and/or the layout of Route 95/128, where a 20 foot landscaped vegetative buffer is proposed. (Current front setback is 20 feet except along Gould and Highland where a 50 foot building setback is imposed.) The side setback would change to 10 feet unless the building height exceeds 42 feet, in which case the side setback is increased to 20 feet for all side setbacks not abutting the MBTA right-of-way. (The current side setback is 20 feet.) The rear setback would change to 20 feet when building height exceeds 42 feet for those rear setbacks not abutting the MBTA right-of-way. (The current rear setback is 10 feet.) The maximum height is increased to 70 feet except that a building within 150 feet of Highland Avenue and 200 feet of Gould Street is limited to a height of 42 feet or 48 feet if under a pitched roof or recessed from the face of the building in a manner approved by the Planning Board. The 42 foot height or four story profile is consistent with the height allowed in the Elder Services District across Gould Street from the new HC1. By special permit, the height may increase up to 84 feet, except within 150 feet of Highland Avenue and 200 feet of Gould Street, which, given the topography of these lots (they pitch down near the highway), appears as four stories along the street fronts of Gould Street and Highland Avenue. (The current zoning allows only 30 feet or two stories.) For informational purposes, the required building*

*setbacks and allowed envelopes (including setbacks) for additional height above 42 feet are shown as Figure 1 for the as-of-right condition and as Figure 2 for the special permit condition in the zoning article.*

*The new zoning creates a maximum lot coverage requirement of 65% and an open space requirement of a minimum of 20%. (The current zoning contains no such requirements.) Changes are also proposed to the maximum floor area ratio (“FAR”); a maximum FAR by right would be 1.00; the FAR may be increased up to 1.75 by special permit provided certain findings are made. The amendment clearly sets out the specific factors which will allow the exercise of the Board’s special permit granting authority. The proposed zoning also sets out the maximum uninterrupted façade length that is allowed—200’. (The current zoning allows an FAR of only 0.5 and only in very limited special circumstances 0.65-0.75.)*

*Finally, the new zoning restricts the bulk, height and location of the parking garage, even if it is for an as-of-right development; if the bulk, height and/or location are not within the envelope allowed by right, the parking structure requires the issuance of a special permit by the Planning Board. The bulk, height and location requirements of an as-of-right parking garage are shown on Figure 3 in the zoning article.*

*Because the CEA has concluded that the future development of this critical commercial area along Route 128 depends on Needham’s ability to be responsive to the requirements of new or proposed uses or construction, it recommended the adoption of Section 4.11.3 which tracks the language from the New England Business Center district zoning adopted in 2011. Successful office parks flourish due to the flexibility of their zoning provisions. This amendment will impart greater flexibility in the Zoning By-Law by allowing the Planning Board to relax dimensional requirements up to a maximum of 25% except with regard to height, by special permit but only after making very specific findings as to the propriety of the waivers as to a particular project, use and location.*

*Based on the build-out analysis, traffic report, dimensional analysis, consultant findings and information, and meeting testimony, the CEA and Planning Board confirmed that certain dimensional requirements, including front setback, height, floor area ratio, and side setbacks, and use requirements were constraining development. The current zoning effectively precludes additional development. As the CEA’s consultant concluded, realistic development expansion potential under the current zoning is essentially zero, and, given the properties’ regionally prime commercial location along Route 128, they are significantly underperforming economically, to the detriment of the Town. With rezoning, in time, this area should attract significant high value redevelopment, which will be overseen by the Planning Board under its site plan review and special permit obligations.*

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**ARTICLE 6: AMEND ZONING BY-LAW – MAP CHANGE TO HIGHWAY COMMERCIAL 1**

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map as follows:

Place in the Highway Commercial 1 District all that land now zoned Industrial-1 and lying between the Circumferential Highway, known as Route 128/95 and Gould Street and between the Massachusetts Bay Transit Authority (M.B.T.A.) right-of-way and Highland Avenue. Said land is bounded and described as follows:

Beginning at a stone bound on the northerly layout line of Highland Avenue at the intersection of Gould Street as shown on a plan recorded at the Norfolk County Registry of Deeds, Plan No. 564 of 2001, Plan Book 489; thence turning and running southwesterly, westerly and northwesterly along a radius of 44.00 feet a distance of 80.06 feet to a stone bound on the easterly sideline of Gould Street; thence running northwesterly, northerly, and northeasterly along a curve of radius of 505.00 feet of said sideline of Gould

Street a distance of 254.17 feet to a point on the said easterly sideline of Gould Street; thence running N10°49'50"E a distance of 284.29 feet to a point on the said easterly sideline of Gould Street at the intersection of TV Place, a privately owned Right of Way; thence continuing N10°49'50"E a distance of 160.00 feet more or less to a stone bound as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I; thence continuing N10°49'50"E a distance of 84.82 feet to a stone bound located at the intersection of the easterly sideline of Gould Street and the southerly sideline of the M.B.T.A. Right of Way as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I; thence turning and running along said southerly M.B.T.A. Right of Way line northeasterly a distance of 1,219.55 feet as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430I, 18430J and 18430H to a point at the intersection of the westerly sideline of the Route 128 Right of Way and said southerly sideline of the M.B.T.A. Right of Way; thence turning and running S4°25'46"E a distance of 292.00 feet to a stone bound as shown on a plan recorded at the Norfolk County Registry of Deeds Land Court Case No. 18430H; then turning and running southwesterly along the Route 128 Right of Way a distance of 484.61 feet to a point; thence turning and running S13°34'58"W a distance of 451.02 feet as shown on a plan recorded at the Norfolk County Registry of Deeds, Plan No. 564 of 2001, Plan Book 489 to a point; thence turning and running S76°26'41"E a distance of 35.56 feet to a point; thence turning and running S13°34'58"W a distance of 67.34 feet to a point; thence running southwesterly along a curve of radius 245.45 feet a distance of 136.59 feet to a point; thence running southwesterly along a curve of radius 248.02 feet a distance of 38.04 feet to a point; thence running southwesterly along a curve of radius 1180.00 feet a distance of 140.09 feet to a point; thence turning and running S42°43'47"W a distance of 42.52 feet to a stone bound located in the westerly sideline of the Route 128 Right of Way; thence turning and running S63°56'51"W a distance of 361.46 feet to the point of beginning.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

*Article Information: Article 6 describes the geographical area proposed to be placed in the new Highway Commercial 1 zoning district. The affected area is generally bounded on the north by the Massachusetts Bay Transit Authority (M.B.T.A.) commuter railroad right-of-way, on the east by the Circumferential Highway, known as Route 128/95, on the south by Highland Avenue and on the west by Gould Street. The subject land is currently located in the Industrial-1 zoning district.*

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## **ARTICLE 7: AMEND ZONING BY-LAW – ACCESSORY DWELLING UNIT**

To see if the Town will vote to amend the Needham Zoning By-Law as follows:

1. Amend Section 1.3, Definitions, by adding the following term and definition in the appropriate alphabetical order:

“Accessory Dwelling Unit (ADU) – An apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit shall be subordinate in size to the principal dwelling unit on a lot and shall be constructed to maintain the appearance and essential character of the single-family dwelling.”

- Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.1, Uses in the Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, Apartment A-1, Apartment A-2, Apartment A-3, Institutional, Industrial and Industrial-1 Districts, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

“ <u>USE</u>	<u>RRC</u>	<u>SRB</u>	<u>GR</u>	<u>A-1,2</u>	<u>I</u>	<u>IND</u>	<u>IND-1</u>
	SRA			& 3			
Accessory Dwelling Unit (See 3.15)	SP	SP	SP	SP	SP	SP	SP”

- Amend Section 3.2, Schedule of Use Regulations, Subsection 3.2.2, Uses in the Business, Chestnut Street Business, Center Business, Avery Square Business and Hillside Avenue Business Districts, by inserting immediately above the row that reads “Café or lecture room associated with a private school” a new entry, which shall read as follows:

“ <u>USE</u>	<u>B</u>	<u>CSB</u>	<u>CB</u>	<u>ASB</u>	<u>HAB</u>
Accessory Dwelling Unit (See 3.15)	SP	N	N	SP	SP”

- Amend Section 3.2.3, Uses in the Neighborhood Business District, Subsection 3.2.3.2, Uses Permitted by Special Permit, by inserting a new paragraph (c) that reads “Accessory Dwelling Unit under Section See 3.15” and by renumbering former paragraphs (c) thru (o) as (d) thru (p) respectively.
- Amend Section 3, Use Regulations, by adding a new Section 3.15, Accessory Dwelling Units (ADUs), to read as follows:

“3.15 Accessory Dwelling Units (ADUs)

3.15.1 Intent

The intent and purpose of this section is to permit accessory dwelling units (ADUs) in single-family homes for occupancy by (a) an Owner (as defined in this section 3.15.2) or (b) Family of an Owner of the property (as so defined) or (c) Caregivers to an Owner of the property or a Family member of an Owner (as so defined) who resides in the property as his or her primary residence, all subject to the standards and procedures hereinafter set forth. It is also the intent to assure that the single-family character of the neighborhood will be maintained and that the accessory unit remains subordinate to the principal use of the living quarters.

3.15.2 Definition

(a) Accessory dwelling unit (ADU) is an apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. This unit shall be subordinate in size to the principal dwelling unit on a lot and shall be constructed to maintain the appearance and essential character of the single-family dwelling.

(b) “Caregiver” shall mean an adult who regularly looks after an elderly, chronically ill or disabled Owner who needs assistance with activities of daily living or a Family member who needs such assistance and for whom the property is such person’s primary residence.

(c) “Family” shall mean other persons who are related to an Owner or Caregiver by blood, adoption or marriage and who are related to such Owner or Caregiver as follows: spouse, parent, sibling, child, or a spouse or child of any such resident person.

(d) “Owner” shall mean a person who holds record title to the property directly or indirectly and for whom the property is such Owner’s principal residence. Indirect ownership includes but is not limited to a beneficiary of a trust holding record title to the property and a majority owner of the voting stock of a corporation or the membership units of a limited liability company holding record title to the property.

### 3.15.3. Use Regulations

Such accessory dwelling unit (ADU) shall be permitted upon the issuance of a Special Permit by the Board of Appeals under the following use regulations:

- (a) There shall be no more than one ADU on a lot, which ADU shall be located in the single-family detached dwelling and not in an accessory building.
- (b) At least one of the units, the principal unit or the ADU, shall be Owner-occupied, except for a temporary absence of the Owner for a period of nine months or less if written notice thereof is made to the Building Commissioner on a form prescribed by him within 60 days of the commencement of the absence.
- (c) Occupancy of the unit that is not Owner-occupied shall be limited to a member of the Owner’s Family or a Caregiver and such Caregiver’s Family; provided that occupancy of the principal dwelling unit and the ADU combined shall be limited to five persons who are not Family of the Owner.
- (d) The size of the ADU shall be limited to 850 square feet of living space and shall have no more than one bedroom.
- (e) Off-street parking shall be provided for residents of both units with a minimum of one parking space per dwelling unit.
- (f) Adequate provisions for the proper disposal of sewage, waste, and drainage generated by the ADU shall be in accordance with Board of Health requirements.
- (g) Compliance with the ingress and egress provisions of the Massachusetts State Building Code, applicable to dwelling units, shall be required. To the extent possible, exterior entrances and access ways shall not detract from the single-family appearance of the dwelling. Where there are two or more existing entrances on the front façade of a dwelling and modifications are made to any entrance, the result shall be that one appears to be the principal entrance and the other appears to be secondary. An interior door way shall be provided between each living unit as a means of access for purposes of emergency response. All stairways to additional floors shall be enclosed within the exterior walls of the structure.
- (h) The owner of record shall be responsible for submitting an ADU application to the Building Commissioner. Floor plans of the accessory unit and principal residence, along with a certified site plan, shall also be submitted with the application to the Building Commissioner. Appropriate fees

as established and recorded shall be assessed for the initial application and each renewal of the occupancy permit as determined by the Building Commissioner.

- (i) The installation of the ADU shall require the issuance of a building permit by the Building Commissioner.
- (j) Occupancy of the ADU shall not take place without proof of the recorded Special Permit and an occupancy permit issued by the Building Commissioner. The initial occupancy permit shall remain in force for a period of three (3) years from the date of issue provided that ownership of the premises is not changed. Thereafter, permits may be issued by the Building Commissioner for succeeding three-year periods provided that the structure and use continue to comply with the relevant provisions of the State Building Code and Needham By-laws. Occupancy permits shall not be transferable upon a change in ownership or occupancy.
- (k) In the case that the ADU has violated the terms of the Special Permit or the lawful use of such unit has expired or been terminated, the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the provisions that create a separate dwelling unit, such as living, sleeping, cooking and eating.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS THAT: Recommendation to be Made at Town Meeting

*Article Information: Article 7 establishes a Special Permit process to enable the Board of Appeals to permit accessory dwelling units (ADUs) in single-family homes for occupancy by the Owner; Family members related to the Owner by blood, adoption or marriage (spouse, parent, sibling, child, or a spouse of such persons); and Caregivers of Family members who look after an elderly, chronically ill or disabled Owner who needs assistance with activities of daily living or a Family member who needs such assistance, subject to specified standards and procedures. It is also the intent of this zoning to assure that the single-family character of a neighborhood will be maintained and that the accessory unit remains subordinate to the principal use of the living quarters. ADUs will be allowed in all zoning districts with the exception of the Chestnut Street Business District, Center Business District, Highway Commercial 1, Mixed-Use 128 District, Highland Commercial 128 District, and New England Business Center District. In these zoning districts single-family homes are not currently permitted.*

*Under Article 7, the accessory dwelling unit (ADU) is defined as an apartment in a single-family detached dwelling that is a second, self-contained dwelling unit and a complete, separate housekeeping unit containing provisions for living, sleeping, cooking and eating. The ADU must be subordinate in size to the principal dwelling unit on a lot, and constructed to maintain the appearance and essential character of the single-family dwelling.*

*To accomplish this, the by-law restricts size, occupancy, and exterior conditions. In regards to size, the ADU is limited to one-bedroom and 850 square feet with no more than one ADU per lot. Additionally, the ADU must be located in the primary structure, not in an accessory building.*

*In regard to occupancy, at least one of the units must be Owner-occupied; and occupancy of the unit that is not Owner-occupied is limited to a member of the Owner's Family or a Caregiver and such Caregiver's Family; provided that occupancy of the principal unit and ADU combined includes no more than five persons who are not Family of the Owner. Temporary absence of an Owner of a property containing an*

*accessory dwelling unit is permitted for a period of up to nine months if written notice is made to the Building Commissioner on a form prescribed by him within 60 days of the commencement of the absence.*

*With respect to exterior appearance, the by-law requires that exterior entrances and access ways do not detract from the single-family appearance of the dwelling to the extent possible. Where there are two or more existing entrances on the front façade of a dwelling and modifications are made to any entrance, the result must be that one appears to be the principal entrance and the other appears to be secondary. Moreover, all stairways must be enclosed within the exterior walls of the structure. An interior doorway is also required for access between each unit for purposes of emergency response. There must also be sufficient off-street parking, defined as a minimum of one space per unit.*

*Applications to create an ADU must be submitted to the Building Commissioner with floor plans and a certified site plan. Beyond the Special Permit from the Board of Appeals, building and occupancy permits are required from the Building Commissioner. All units must be in compliance with Board of Health and State Building Code regulations.*

*The occupancy permit will be provided for a three-year period after which succeeding three-year periods will be allowed based on continued compliance with zoning requirements. The occupancy permits will not be transferable upon a change of ownership or occupancy. In the case of violations of the terms of the Special Permit or the expiration of the lawful use of the ADU, the Building Commissioner may, in addition to other remedies, order the removal of any one or more of the components that create a separate dwelling unit such as living, sleeping, cooking and eating.*

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## CAPITAL ARTICLES

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### **ARTICLE 8:      APPROPRIATE FOR POLLARD SCHOOL GYM**

To see if the Town will vote to appropriate the sum of \$125,000 for Pollard School gym repairs, to be spent under the direction of the Town Manager and transferred from Article 37 of the 2019 Annual Town Meeting; or take any other action relative thereto.

INSERTED BY:   Select Board

FINANCE COMMITTEE RECOMMENDS THAT:   Recommendation to be Made at Town Meeting

*Article Information: The Building Maintenance Division began renovating the green and blue gyms at the Pollard Middle School during the summer of 2019. Prior to construction, asbestos was discovered in the subflooring of the green gym. The flooring replacement in the green gym has been postponed until the summer of 2020 in order to abate the asbestos. The floor replacement in the blue gym and the other upgrades in both gyms, including new pads and equipment, are substantially complete. This article would transfer unexpended funds from the Newman School gym floor replacement project, which was completed this summer under budget, to abate the subflooring material in the green gym next summer.*

And you are hereby directed to serve this Warrant by posting copies thereof in not less than twenty public places in said Town at least fourteen (14) days before said meeting.

Hereof fail not and make due return of this warrant with your doings thereon unto our Town Clerk on or after said day and hour.

Given into our hands at Needham aforesaid this 10<sup>th</sup> day of September 2019.

John A. Bulian, Chair  
Maurice P. Handel, Vice Chair  
Matthew D. Borrelli, Clerk  
Marianne B. Cooley, Member  
Daniel P. Matthews, Member

*Select Board of Needham*

A TRUE COPY

Attest:

Constable: