

NEEDHAM PLANNING BOARD
Tuesday, September 19, 2023
7:00 p.m.

Charles River Room
Public Services Administration Building, 500 Dedham Avenue
AND
Virtual Meeting using Zoom
Meeting ID: **880 4672 5264**
(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **880 4672 5264**

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click “Join a Meeting” and enter the following ID: **880 4672 5264**

Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: **880 4672 5264**

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

1. Transfer of Permit: Major Project Site Plan Review No. 2015-07: Latin-A Group, LLC d/b/a Latina Kitchen and Bar, to Metrowest Dining, LLC, dba The Common Room, Petitioner (Property located at 30 Dedham Avenue, Needham, MA).
2. Appointments:

7:10 p.m. George Giunta, Jr.: Discussion of possible redevelopment and rezoning of property located at 888 Great Plain Avenue.
3. Discussion of Zoning Strategies for Solar Energy Systems.
4. Minutes.
5. Report from Planning Director and Board members.
6. Correspondence.

(Items for which a specific time has not been assigned may be taken out of order.)

TOWN OF NEEDHAM
MASSACHUSETTS



500 Dedham Avenue
Needham, MA 02492
781-455-7550

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one) Major Project Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property 934-948 Great Plain Avenue
Name of Applicant Metrowest Dining, LLC
Applicant's Address 145 Bonad Road, Chestnut Hill, MA 02467
Phone Number (781) 727-5006

Applicant is: Owner _____ Tenant X
 Agent/Attorney _____ Purchaser _____

Property Owner's Name 934-948 Great Plain Avenue Nominee Trust
Property Owner's Address 907 Massachusetts Ave., Cambridge, MA 02139
Telephone Number (617) 304-1820

Characteristics of Property: Lot Area 10,867 Present Use Restaurant
 Map # 47 Parcel # 4 Zoning District SRB

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

Transfer of Special Permit
from:
Latin-A Group, LLC d/b/a/ LatinA Kitchen and Bar
to:
Metrowest Dining, LLC

Signature of Applicant (or representative)
Address if not applicant _____
Telephone # (781) 727-5006
Owner's permission if other than applicant Tr.

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board _____ Date _____
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

NOTE: Reports on Minor Projects must be issued within 35 days of filing date.

Scott McCourt
Metrowest Dining, LLC
181 Richdale Road
Needham, MA 02494

September 8th, 2023

Alexandra Clee
Assistant Town Planner
Needham Planning Board
500 Dedham Avenue, Suite 118
Needham, MA 02492

Metrowest Dining, LLC has entered an agreement to purchase Latina Kitchen and Bar (located at 948 Great Plain Ave.) from Latin-A Group LLC and has been granted an assignment of the lease from the landlord. It is our intention to continue operating as a full-service restaurant under a yet to be determined name (working name is "The Common Room").

We have reviewed the original permit including:

- Original permit dated October 27, 2015, issued to Great Plain Hospitality, LLC d/b/a RFK Kitchen
- Minor Modification regarding dumpster enclosure materials, dated May 23, 2017.
- Transfer to Latin-A Group, LLC d/b/a Latina Kitchen and Bar, dated May 21, 2019.
- Amendment permitting Outdoor Dining, dated March 28, 2022.

Metrowest Dining, LLC will operate the new restaurant (The Common Room) in accordance with all of the conditions specified in the special permit and amendments. We are therefore requesting the Planning Board to consider our request to transfer the Special Permit from Latin-A Group LLC to Metrowest Dining, LLC at the next Planning Board meeting. Thank you for your consideration.

Best Regards,



Scott McCourt

Manager, Metrowest Dining, LLC

Enclosure: Business Plan



Business Plan

September, 2023

The Common Room

I. Executive Summary

"The Common Room" is a family-friendly restaurant and catering business in Needham, Massachusetts, designed to provide a casual, welcoming space for patrons of all ages to gather, socialize, watch sporting events while enjoying great food at a good value. The partners behind "The Common Room" bring over 40 years of combined experience in the restaurant industry and have strong connections to the local community. The business aims to generate weekly revenue of \$28,000+, with 10% year-over-year growth projection. This business plan outlines the strategies, market analysis, financial projections, and operational plan that will contribute to the success of "The Common Room".

II. Company Description

The Common Room is a restaurant and catering business focused on delivering a welcoming atmosphere, exceptional service, and high-quality comfort food made from fresh, locally sourced ingredients. The founding partners with 40 years of combined experience in the restaurant industry, are dedicated to creating a space where neighbors can meet and form lasting friendships while supporting local community groups such as first responders, town employees and civic groups.

III. Market Analysis

A. Industry Overview:

Needham is fortunate to have a vibrant town center with a thriving restaurant scene featuring many establishments serving a mix of cuisines and specialties. Currently lacking is a gathering place where families and friends can go for a varied menu featuring great American comfort food and a place to "watch the game". The Common Room will fill this void in the market.

B. Target Market:

Families, work groups, neighbors and sports enthusiasts seeking a comfortable place to watch games and socialize in a safe and inviting environment and enjoy great food at reasonable prices.

Local residents in need of a gathering spot for community events, including watch parties, trivia nights, and local fundraisers.

First responders, town employees, and teachers who will benefit from monthly appreciation events, fostering goodwill and long-term relationships within the community.

C. Market Segmentation:

Age group: The Common Room will cater to families, young professionals and neighbors of all ages.

Demographics: The target market includes sports enthusiasts, professionals, and families residing in Needham and surrounding areas.

Income level: By offering great value The Common Room will appeal to all income levels in the Needham community.

IV. Services and Products

A. Restaurant Bar and Grill:

A diverse selection of beers, wines, and cocktails, including craft beers from local breweries and signature cocktails created by our skilled bartenders.

Multiple large-screen TVs strategically placed throughout the venue for optimal game viewing, ensuring every seat has a great view of the action.

A menu featuring upscale comfort food made from high-quality, locally sourced ingredients, with options for various dietary preferences, such as vegetarian, vegan, and gluten-free dishes.

B. Catering Services:

Customizable menus for private events, corporate functions, and special occasions, tailored to the client's preferences and requirements.

On-site and off-site catering options, with professional staff and a dedicated catering kitchen to ensure seamless execution of events.

Partnerships with local event planners and venues, to provide a complete event experience for clients.

C. Special Events:

Weekly brunch service on Saturdays and Sundays, featuring a diverse menu and signature brunch cocktails, such as mimosas and Bloody Marys.

Monthly appreciation events for town employees, first responders, and teachers, showcasing our commitment to supporting the local community.

Regularly scheduled themed events and promotions, such as trivia nights, game nights, live music, and holiday parties, to keep customers engaged and entertained.

V. Marketing and Sales Strategies

A. Local Marketing:

Establish partnerships with local sports teams, civic organizations, local businesses and town employees to promote The Common Room as the go-to destination for game viewing and post-game celebrations.

Utilize social media platforms, including Facebook, Instagram, and Twitter, to engage with the community, promote events, share menu updates, and showcase positive customer experiences.

Offer special promotions and discounts for first-time visitors and local residents, such as specials, loyalty programs, and referral incentives.

B. Community Involvement:

Host charity events and fundraisers to support local causes, demonstrating our commitment to the well-being of the Needham community.

Partner with local schools and educational organizations for events, promotions, and sponsorship opportunities, reinforcing our support for the town's educators.

Develop relationships with local businesses for cross-promotion opportunities, fostering a collaborative business environment within Needham.

C. Public Relations:

Engage a local PR agency to secure media coverage in newspapers, magazines, and online platforms, creating buzz and anticipation leading up to the grand opening.

Partner with influencers and bloggers in the food and beverage industry to generate word-of-mouth marketing and online reviews.

Maintain a strong online presence through regular updates on our website, social media channels, and engagement on popular review platforms such as Yelp and Google Reviews.

VI. Operations Plan

A. Hours of Operation:

Open seven days a week for lunch and dinner service, providing customers with ample opportunities to visit and enjoy our offerings.

Brunch service on Saturdays and Sundays, catering to the weekend crowd seeking a relaxed and enjoyable dining experience.

B. Staffing:

Most of existing staff (LatinA) will be retained and the partners have existing relationships in the local restaurant community to add any needed additional experienced and dedicated staff to ensure exceptional customer service and a welcoming atmosphere.

Provide ongoing training and support to maintain high standards of quality and professionalism, fostering employee satisfaction and low turnover rates.

C. Facilities:

Design a welcoming and comfortable atmosphere that encourages socializing and community engagement, incorporating elements of local sports/town history and memorabilia to create a unique and authentic ambiance.

VII. Risk Management and Contingency Plan

A. Risk Identification:

Economic downturn affecting disposable income of customers.

Increased competition from other bars and restaurants.

Fluctuations in food and beverage costs.

B. Risk Mitigation Strategies:

Diversify revenue streams by offering catering services, simulators and hosting special events.

Monitor industry trends and adapt marketing strategies accordingly.

Implement cost control measures and maintain a flexible menu to accommodate fluctuating food costs.

C. Contingency Plan:

In case of unforeseen challenges, identify potential areas for cost reduction and efficiency improvement.

Establish a strong relationship with suppliers to negotiate better terms and manage supply chain disruptions.

Continuously seek opportunities for business expansion or additional revenue sources, such as partnering with ghost kitchens, delivery services or offering takeout options.

VIII. Monitoring and Evaluation

A. Regular Performance Reviews:

Conduct regular reviews of financial performance, customer satisfaction, and employee performance to identify areas for improvement and growth.

Utilize customer feedback, online reviews, and social media engagement to gauge the effectiveness of marketing strategies and service quality.

B. Adaptation and Adjustment:

Remain agile and responsive to changes in the market and customer preferences, adjusting the business model, menu offerings, and marketing strategies as necessary.

Continuously invest in staff training, equipment upgrades, and facility enhancements to ensure "The Common Room" remains a top choice for patrons in Needham.

C. Long-term Sustainability:

Focus on building strong relationships with the local community, suppliers, and partners to establish "The Common Room" as a cornerstone of the Needham social scene.

Prioritize customer satisfaction and a high-quality experience to create long-lasting loyalty and positive word-of-mouth marketing.

D. Continuous employee training on ABCC and Town of Needham Alcohol policies to ensure compliance.

IX. Conclusion

The Common Room is poised to become a staple in Needham, Massachusetts, filling a growing need for a family-friendly, community-oriented gathering place. With strong connections to the local community, an emphasis on supporting first responders and town employees, and a wealth of experience in the restaurant industry, the partners behind The Common Room are confident in their vision of creating a vibrant space where neighbors can meet and form lasting bonds.

Through careful planning, strategic marketing, and a focus on delivering exceptional customer experiences, **The Common Room** will become "**The Place to Meet**" in Needham.



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2015 OCT 28 PM 4:25

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

PLANNING

DECISION

MAJOR PROJECT SITE PLAN SPECIAL PERMIT

Great Plain Hospitality, LLC d/b/a RFK Kitchen

948 Great Plain Avenue

Application No. 2015-07

Decision of the Planning Board (hereinafter referred to as the Board) on the petition of Great Plain Hospitality, LLC d/b/a RFK Kitchen, 42 Birch Street, Needham, Massachusetts, (hereinafter referred to as the Petitioner) for the property located at 948 Great Plain Avenue, Needham, Massachusetts. Said property is shown on Needham Town Assessors Plan, No. 47, as Parcel 4, containing 10,867 square feet in the Center Business Zoning District.

This Decision is in response to an application submitted to the Board on September 17, 2015, by the Petitioner for: (1) a Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter in the Center Business District; (3) a Special Permit under Section 3.2.2 of the By-Law for a take-out operation accessory to a restaurant serving meals for consumption on the premises; (4) a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential building or use on a lot; (5) a Special Permit under Section 1.4.6 of the By-Law for the change and/or extension of a lawful, pre-existing, non-conforming, use or building, if applicable; and (6) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements).

The requested Major Project Site Plan Special Permit, would, if granted, permit the Petitioner to redevelop the premises located at 948 Great Plain Avenue, formerly occupied by VO2, Max Fitness, to operate a 100 seat restaurant. The restaurant will include take-out capability and intends to apply for a license to sell alcoholic beverages. Lunch, dinner and brunch service will be provided.

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 Chairman, Jeanne S. McKnight, on Tuesday October 6, 2015 at 7:45 p.m. in the Charles River Room, Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. Board members, Jeanne S. McKnight, Bruce T. Eisenhut, Elizabeth J. Grimes, Martin Jacobs and Paul S. Alpert were present throughout the proceedings. The record of the proceedings and the submissions 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 Properly executed application for a Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law, for a Special Permit under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter in the Center Business District, for a Special Permit under

Section 3.2.2 of the By-Law for a take-out operation accessory to a restaurant use, for a special Permit under Section 3.2.2 of the By-Law for more than one non-residential building or use on a lot, for a Special Permit under Section 1.4.6 of the By-Law for the change and/or extension of a lawful, pre-existing, non-conforming, use or building, if applicable, and, for a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), said application dated September 17, 2015.

- Exhibit 2** Two letters from Attorney Roy A. Cramer to the Needham Planning Board dated September 9, 2015 and September 10, 2015.
- Exhibit 3** Plan entitled, "Proposed Restaurant, 948 Great Plain Avenue", prepared by McKay architects, 35 Bryant Street, Dedham, MA 02026, consisting of 7 sheets: Sheet 1, Sheet A-1.1, entitled "Ground Floor Plan," dated September 3, 2015; Sheet 2, Sheet A-1.1b, entitled "Ground Floor Plan," dated September 3, 2015; Sheet 3, Sheet A-1.2, entitled "Basement Plan," dated September 3, 2015; Sheet 4, Sheet L-1.1, entitled "Site Plan," dated September 3, 2015; Sheet 5, Sheet A-2.1, entitled "Dedham Street Exterior Elevation," dated September 3, 2015; Sheet 6, Sheet A-2.2, entitled "Great Plain Ave / Dedham Street Exterior Elevation," dated September 17, 2015; Sheet 7, Sheet A-4.1, entitled "Interior Elevations," dated September 3, 2015.
- Exhibit 4** Letter to Roy A. Cramer, Attorney, from F. Giles Ham, Vanasse & Associates, Inc., 35 New England Business Center Drive, Suite 140, Andover, MA 01810-1066, dated September 24, 2015.
- Exhibit 5** Interdepartmental Communication (IDC) to the Board from Thomas Ryder, Assistant Town Engineer, dated October 1, 2015; IDC to the Board from Tara Gurge, Health Department, dated October 1, 2015; IDC to the Board from Lt. John H. Kraemer, Needham Police Department, dated October 2, 2015; and IDC to the Board from Chief Dennis Condon, Needham Fire Department, dated October 2, 2015.

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

- Exhibit 6** Plan entitled, "948 Great Plain Avenue, Needham, MA" prepared by EMBARC architects, 60 K Street, Third Floor, Boston, MA 02210, consisting of 4 sheets: Sheet 1, Drawing A001, entitled "Site Information," dated October 16, 2015; Sheet 2, Drawing A100, entitled "Proposed Floor Plans," dated October 16, 2015; Sheet 3, Drawing 201, entitled "Exterior Elevations," dated October 16, 2015; and Sheet 4, Drawing 202, entitled "Color Elevations and Precedents," dated October 16, 2015. (Plan approved by the Design Review Board on October 19, 2015.)

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

FINDING AND CONCLUSIONS

- 1.1 The subject property is located in the Center Business Zoning District at 948 Great Plain Avenue. The site contains 10,867 square feet of land. Said building is located on the property identified as Parcel 4 on Town of Needham Assessor's Map No. 47.

- 1.2 The premises contain a total of approximately 3,405 square feet on the first floor and 3,405 square feet in the basement. The premises were previously the subject of Major Project Site Plan Special Permit No. 2011-03, issued to VO2 Max Fitness LLC, dated July 12, 2011.
- 1.3 The Petitioner seeks the zoning relief that is necessary to renovate the first floor space to make same suitable for use as a full service, eat-in restaurant with waiter and waitress service, with 100 total seats, together with an accessory take-out service. The Petitioner intends to apply for a license to sell alcoholic beverages. Some food preparation and storage will occur in the basement space.
- 1.4 The Petitioner proposes to operate Great Plain Hospitality, LLC d/b/a RFK Kitchen, 7 (seven) days a week for lunch and dinner, as well as for brunch on Saturday and Sunday. The proposed hours of operation are 11:00 a.m. – 11:00 p.m. Monday through Thursday, 11:00 a.m. – midnight Friday and Saturday, and 11:00 a.m. – 11:00 p.m. on Sunday. The Petitioner proposes to utilize the services of no more than 12 (twelve) employees for lunch, 21 (twenty-one) employees for dinner, and 16 (sixteen) employees for brunch.
- 1.5 RFK Kitchen will offer three dining options. Guests can sit in the dining room at more traditional tables, around the open kitchen surrounded by counter seating, or in the bar/lounge area. At the chef's counter, guests will have the opportunity to take a more improvisational route, a manner of dining in which the guest provides just enough information about their personal preferences and dietary restrictions for the chef and her team to provide a modern and seasonal tasting menu with room for innovation.
- 1.6 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (number of parking spaces) Required Parking. Under the By-Law, the parking requirement for a 100-seat restaurant is 44 (1 parking space per 3 seats, plus 10 parking spaces for one take-out station). Accordingly, a waiver of 44 parking spaces has been requested. No parking is provided on-site. The basement will be utilized for storage, food preparation, an office, an employee break room and bathrooms.
- 1.7 Pursuant to Section 5.1.1.3 of the By-Law no change or conversion of a use in a mixed use structure to a use which requires additional parking shall be permitted unless off-street parking is provided in accordance with Section 5.1.3 for the entire structure or a waiver is granted pursuant to the provisions of Section 5.1.1.6. As there is no parking associated with the property, a waiver under the provisions of Section 5.1.1.6 is required.
- 1.8 The Petitioner will utilize the existing common dumpster at the rear of the site that presently serves the existing tenants on the property. A dumpster enclosure will be added. The Petitioner will also share the existing grease receptacle with Sweet Basil (another tenant on the property) for fryer and grease oil removal other than what will be removed by Petitioner's own grease trap. The Petitioner is currently analyzing whether the grease trap that will serve the Petitioner's restaurant will be located in the building or external to the building.
- 1.9 The Petitioner appeared before the Design Review Board on October 19, 2015, and obtained approval for the project.
- 1.10 The site is appropriate for the use and the structure. The site is located at the intersection of heavily traveled Great Plain Avenue and Dedham Avenue in close proximity to other commercial uses.

- 1.11 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 use, light and air. No change to the footprint of the building is proposed. The Petitioner proposes to relocate the main entrance into the restaurant to Dedham Avenue. The site already includes a surface water drainage system connected to the municipal system and is designed to accommodate the existing runoff. The site is presently fully developed and nothing further is required in the areas of sound and site buffers, preservation of views, light and air.
- 1.12 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets, and, when necessary, compliance with other regulations for the handicapped, minors, and the elderly has been assured. There is no on-site parking and parking will be available in municipal lots and on-street parking. The primary access and egress to the property will be moved to Dedham Avenue from its present location, which is a shared vestibule with the abutting business at the corner of Great Plain Avenue and Dedham Avenue. In addition to on-street parking, the premises are in close proximity to two municipal parking lots. The town has recently purchased land on Lincoln Street and School Street to create additional parking.
- 1.13 Adequate methods for the disposal of refuse and wastes will be provided. The project's wastewater system will be connected to the municipal sewer system. The existing common dumpster at the rear of the property that presently serves the existing tenants on the property will be shared with the Petitioner. The Petitioner will also share the existing grease receptacle with Sweet Basil (another tenant on the property) for fryer and grease oil removal other than what will be removed by Petitioner's own grease trap.
- 1.14 Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of the By-Law will be met. As described above, no changes to the footprint of the existing building are proposed. The elevation changes will improve the Dedham Avenue streetscape and the main entrance to the restaurant will be somewhat closer to the municipal parking lots off Dedham Avenue than is presently the case.
- 1.15 Mitigation of adverse impact on the Town's resources including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets will be met as there will be no adverse impact on the Town's resources. This project involves the reuse of an existing leased space in the building. All applicable Board of Health regulations with respect to restaurant use will be complied with. The addition of this restaurant to Needham Center will have a positive impact on both Needham Center and the Town of Needham in general. The project will improve the aesthetics of the building and provide another amenity to Needham residents and visitors.
- 1.16 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been assured. As described above there is no on-site parking but street parking is available as well as municipal lots in close proximity to the premises. The movement of the main entrance from the vestibule, the corner of Great Plain Avenue and Dedham Avenue, to Dedham Avenue will enhance pedestrian activity along Dedham Avenue and the site can be accessed easily and safely from the municipal parking lots.
- 1.17 The proposed project demonstrates that it is providing the maximum number of off-street parking spaces practicable. Due to the configuration of the building and its location on the lot, it is

impossible to comply with the provisions of the Zoning By-Law with regard to off-street parking, as there are no on-site parking spaces.

- 1.18 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Center Business District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.19 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow a Special Permit for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter in the Center Business District, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.
- 1.20 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow a Special Permit for an accessory take-out operation incidental to a lawful restaurant principal use in the Center Business District, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.
- 1.21 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow for more than one nonresidential use on the lot , provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.22 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design 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 neighborhoods inherent use.
- 1.23 Under Section 1.4.6 of the By-Law, a lawful pre-existing nonconforming building 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.

- 1.24 The Board finds that the Petitioner has demonstrated through the submittal of a professional prepared parking study (Exhibit 4) that sufficient public off-street and on-street parking is available to service the expanded restaurant use during the lunchtime hours.

THEREFORE, the Board voted 5-0 to GRANT: (1) a Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law; (2) a Special Permit under Section 3.2.2 of the By-Law for a restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter in the Center Business District; (3) a Special Permit under Section 3.2.2 of the By-Law for a take-out operation accessory to a restaurant serving meals for consumption on the premises; (4) a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential building or use on a lot; (5) a Special Permit under Section 1.4.6 of the By-Law for the change and/or extension of a lawful, pre-existing, non-conforming, use or building, if applicable; and (6) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building 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.

- 2.1 The Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
- a) The Plan shall be revised to include the total number of square feet for each floor.
 - b) The Plan shall be revised to include a colored elevation.
 - c) The Plan shall be revised to include a wooden dumpster enclosure.
 - d) The Plan shall be revised to include two exterior benches along the Dedham Avenue façade.
 - e) The Plan shall be revised to incorporate the recommendations of Design Review Board.

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 3.24 hereof.

- 3.1 The use of the subject property shall be that of a one hundred (100) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. In addition, the Petitioner may operate one take-out station accessory to the primary restaurant use. Food preparation and storage shall be permitted to occur in the basement space.
- 3.2 The restaurant shall contain no more than 100 seats for on-site food consumption and one take-out station.
- 3.3 The restaurant may be open for business seven 7 (seven) days a week for lunch and dinner, as well as for brunch on Saturday and Sunday. The hours of operation are 11:00 a.m. – 11:00 p.m. Monday through Thursday, 11:00 a.m. – midnight Friday and Saturday, and 11:00 a.m. – 11:00 p.m. on Sunday. The restaurant may utilize the services of no more than 12 (twelve) employees for lunch, 21 (twenty-one) employees for dinner, and 16 (sixteen) employees for brunch.
- 3.4 Exterior changes to the subject premises are limited to the façade upgrades, relocation of the entry doorway as well as the addition of two benches along the Dedham Avenue façade, a dumpster enclosure in the rear and signage, all as shown on the Plan, as modified by this Decision.
- 3.5 The restaurant shall be located and 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, except as provided in Section 3.6 below.
- 3.6 The proposed restaurant shall contain the floor plan and dimensions and be located on that portion of the locus as shown on the Plan, as modified by this Decision, and in accordance with applicable dimension requirements of the By-Law. Provided further, however, the Petitioner may modify the floor plans without further review or approval, provided that the total number of seats does not exceed 100.
- 3.7 The Petitioner shall purchase ten employee parking stickers from the Town of Needham for use in the Town's municipal parking lots, and shall require its employees to park in the Lincoln Street Parking Lot (Intersection of School and Lincoln Street) whenever space is available in that lot. The off-site parking shall be provided without cost to the employee and said employees utilizing off-street parking stickers shall be prohibited from parking in any location outside the Town's permitted parking area.
- 3.8 The waiver of parking requirements granted by this Decision is contingent upon the premises being used as described in this Decision and in accordance with the representations of the Petitioner, which formed the basis of the findings of fact and other conditions stated herein.
- 3.9 All cooking facilities shall be properly vented so as not to create any disturbing odors. There shall be provision for disposal of refuse, which shall be removed on a timely basis.
- 3.10 This Special Permit to operate the Great Plain Hospitality, LLC d/b/a RFK Kitchen facility at 948 Great Plain Avenue is issued to Great Plain Hospitality, LLC d/b/a RFK Kitchen, 948 Great Plain Avenue, Needham, Massachusetts, prospective lessee only, and may not be transferred, set over, or assigned by Great Plain Hospitality, LLC, to any other person or entity without the prior written approval of the Board following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient.

- 3.11 All loading and deliveries 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. Loading, deliveries and trash pick-up shall be restricted to the rear parking area of the subject site and shall not occur on the public way.
- 3.12 All solid waste associated with this project shall be removed from the site by a private contractor. The trash dumpster pick-up shall occur only between the hours of 7:00 a.m. and 6:00 p.m. Monday through Friday and between the hours of 7:00 a.m. and 1:00 p.m. Saturday, Sunday and Holidays. The trash shall be picked up no less than once per week, or more frequently as may reasonably be necessary to control accumulation.
- 3.13 Additional trash receptacles shall be provided if required and the area shall be kept free of litter from the Great Plain Hospitality, LLC d/b/a RFK Kitchen operation. The dumpster shall be emptied as needed, cleaned and maintained to meet Board of Health Standards. The dumpster shall be screened with a wooden fence, which shall be maintained in good condition.
- 3.14 All new utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.15 The Petitioner shall use due diligence and make reasonable efforts to prevent customers of the restaurant from parking illegally on Great Plain Avenue and Dedham Avenue or from otherwise improperly disrupting the flow of traffic on either street while patronizing the restaurant.
- 3.16 That the following interim safeguards shall be implemented during construction:
- a) The hours of construction shall be 7:30 a.m. to 6:00 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 that 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 Great Plain Avenue and Dedham Avenue.
 - d) The Petitioner shall take the 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 Great Plain Avenue and Dedham Avenue clean of dirt and debris.
- 3.17 That no building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:
- a) The Petitioner shall submit seven copies of the final Plans as approved by the Board.
 - b) The final plans shall be in conformity with those previously approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.

- c) 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.
- 3.18 That no building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:
- a) A Certificate of Compliance and four copies of an as-built elevation and as-built floor plan, signed by the registered architect of record certifying that the project was built according to the approved documents, have been submitted to the Board.
 - b) There shall be filed, with the Building Inspector, a statement by the Board approving the Certificate of Compliance and as-built elevation and as-built floor plan for the proposed improvements, in accordance with this Decision and the approved Plan.
 - c) Four copies of an as-built site plan prepared by the registered architect of record certifying that the required improvements were completed according to the approved documents, have been submitted to the Board. The "site plan" shall have the same format as the "site plan" approved by the Board.
 - d) There shall be filed, with the Board, evidence that the requirements imposed in Section 3.7, the arrangements for the provision of the off-site employee parking stickers, have been satisfied.
- 3.19 In addition to the provision 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 Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, Board of Selectmen and Board of Health.
- 3.20 The portion of the building or structures authorized by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted on site until a Certificate of Occupancy and Use has been issued by the Building Inspector.
- 3.21 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, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.22 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 Petitioner of such violation and give the Petitioner 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 improvements, which are the subject of this petition. All construction to be conducted on site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, 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 should not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This Site Plan Special Permit shall lapse on October 27, 2017, 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 October 27, 2017. 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 unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.
- 4.7 This approval shall be recorded in the Norfolk District Registry of Deeds. This 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 Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

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

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

NEEDHAM PLANNING BOARD

Elizabeth J. Grimes

Paul S. Alpert

Oct. 27, 2015

Notary Public

My Commission Expires: March 18, 2022

Theodora K. Eaton, Town Clerk

Fire Department
Police Department
Board of Health
Conservation Commission
Roy Cramer, Attorney



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

TOWN OF NEEDHAM
MASSACHUSETTS
PLANNING BOARD
May 21, 2019

RECEIVED TOWN CLERK
NEEDHAM, MA 02455
2019 MAY 23 PM 4:56

500 Dedham Ave
Needham, MA 02492
781-455-7550

PLANNING

Major Project Special Permit No. 2015-07
30 Dedham Avenue (formerly 948 Great Plain Avenue)

Great Plain Hospitality, LLC d/b/a RFK Kitchen
TRANSFER OF SPECIAL PERMIT
To Latin-A Group, LLC d/b/a Latina Kitchen and Bar

On May 21, 2019, the Planning Board held a meeting following a written request dated May 16, 2019, from Great Plain Hospitality, LLC d/b/a RFK Kitchen to Latin-A Group, LLC d/b/a Latina Kitchen and Bar. Antonio De Trizio, Manager, Latin-A Group, LLC requested the transfer of Major Project Site Plan Special Permit No. 2015-07 originally issued to Great Plain Hospitality, LLC d/b/a RFK Kitchen on October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017. Pursuant to the authority reserved to the Planning Board under Section 3.10 of the October 27, 2015 Special Permit, the Planning Board waived public notice of the hearing.

Antonio De Trizio stated that he intended to operate a full service restaurant under a new name. The type of operation, the number of seats, and the hours of operation will remain unchanged from what was approved in Major Project Site Plan Special Permit No. 2015-07 issued to Great Plain Hospitality, LLC d/b/a RFK Kitchen on October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017. No changes are proposed on the site other than possible interior renovations, and no façade changes are proposed.

Decision

On the basis of the evidence presented at the meeting, the Planning Board finds that the proposed transferee intends to operate the business as it had been operated by the prior permit holder. The Planning Board by unanimous vote, after motion duly made and seconded, consents to the transfer by Great Plain Hospitality, LLC d/b/a RFK Kitchen to Latin-A Group, LLC d/b/a Latina Kitchen and Bar, 5 Homsy Lane, Needham, MA, of Major Project Site Plan Special Permit No. 2015-07 dated October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017, to use the premises at 30 Dedham Avenue (formerly 948 Great Plain Avenue) as a restaurant operation with an accessory take-out component, subject to the following conditions.

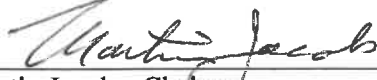
1. The Planning Board's Major Project Site Plan Special Permit Decision No. 2015-07 dated October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017, is incorporated herein by reference and all conditions therein imposed remain in full force and effect except as otherwise authorized herein.

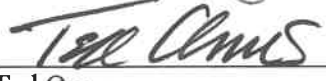
2. The restaurant shall contain the floor plan and dimensions and shall be located on that portion of the locus as shown on the Plan entitled, "948 Great Plain Avenue, Needham, MA" prepared by EMBARC architects, 60 K Street, Third Floor, Boston, MA 02210, Drawing A001, entitled "Site Information," dated October 16, 2015, and in accordance with applicable dimensional requirements of the By-Law. Minor movement of fixed equipment, interior partitions, counters or seating is of no concern to the Board. Any changes, revisions or modifications other than changes deemed "minor movement" to the plan shall require approval by the Board.
3. This special permit may not be transferred without the prior approval of the Planning Board, upon such notice and hearing as the Board in its discretion shall deem necessary or appropriate.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Major Site Plan Special Permit amendment shall not take effect until the Petitioner has delivered written evidence of recording to the Planning Board.

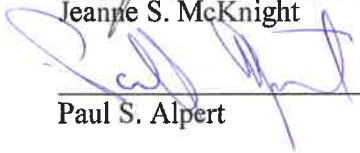
Witness our hands this 21st day of May, 2019.

NEEDHAM PLANNING BOARD


Martin Jacobs, Chairman


Ted Owens


Jeanne S. McKnight


Paul S. Alpert

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

May 21 2019

On this 21 day of May, 2019, 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 me, 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
My Commission Expires: March 18, 2022

Copy sent to:

Petitioner - Certified Mail #
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission

Board of Selectmen
Fire Department
Police Department
Parties in Interest
Engineering
Latin-A Group, LLC d/b/a Latina Kitchen and Bar



2022 APR -7 PM 3:38

PLANNING DIVISION
Planning & Community Development

**AMENDMENT TO DECISION
March 28, 2022**

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar 30 Dedham Avenue, Needham, MA 02492
Application No. 2015-07**

(Original Decision dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of LATIN-A GROUP LLC d/b/a Latina Kitchen and Bar, (hereinafter referred to as the Petitioner) for property located at 30 Dedham Avenue, Needham, MA. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 4 containing 10,867 square feet in the Center Business District.

This decision is in response to an application submitted to the Board on February 15, 2022, by the Petitioner to amend the decision by the Board dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law), (2) a Special Permit Amendment to Major Project Site Plan Review Special Permit No. 2015-07, Section 4.2., and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to reduce the number of seats permitted at the restaurant from 100 seats to 99 seats. With this change, the Petitioner is now proposing a 99-seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. Additionally, the Petitioner seeks to permit 10 outdoor tables with 28 outdoor seats by Latina Kitchen and Bar within the driveway abutting the building and to further reduce the number of indoor seats provided at the restaurant from 99 seats to 71 seats running from April 1 through November 30. With this modification a total of 99 seats would be available from April 1 through November 30 distributed as follows: 71 seats are to be available for indoor dining and 28 seats are to be available for outdoor dining. During the months of December 1 through March 31 a total of 99 seats allocated to indoor dining would be provided. Additionally, the Petitioner is requesting to amend the decision to allow for deliveries to be made from Dedham Avenue, instead of solely through the rear parking lot.

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, Paul S. Alpert on Monday, March 28, 2022 at 7:15 p.m. by Zoom Web ID Number 880 4672 5264. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the March 28, 2022 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.

EVIDENCE

Submitted for the Board's review were the following exhibits:

- Exhibit 1 - Application for the Amendment to 2006-04 and application under Section 6.9 of the Zoning By-Law, dated February 15, 2022.
- Exhibit 2 - Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022.
- Exhibit 3 - Specifications of outdoor furniture.
- Exhibit 4 - Photographs.
- Exhibit 5 - Letter from Jeffrey Feuerman, Brookline Development Corp LLC, dated January 7, 2022.
- Exhibit 6 - Plan of Easements, 916-932 Great Plain Avenue, 36-58 Dedham Ave, prepared by Geod Consulting, 24 Ray Ave, Burlington, MA, dated November 15, 2012.
- Exhibit 7 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated February 28, 2022; IDC to the Board from Tom Ryder dated March 24, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated February 24, 2022; IDC to the Board from Chief John Schlittler, dated March 24, 2022; IDC to the Board from David Roche, Building Commissioner, dated February 23, 2022.

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

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Review Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019 be amended to reduce the number of seats permitted at the restaurant from 100 seats to 99 seats. With this change, the Petitioner is now proposing a 99-seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter. Additionally, the Petitioner seeks to permit 10 outdoor tables with 28 outdoor seats by Latina Kitchen and Bar within the driveway abutting the building and to further reduce the number of indoor seats provided at the restaurant from 99 seats to 71 seats running from April 1 through November 30. With this modification a total of 99 seats would be available from April 1 through November 30 distributed as follows: 71 seats are to be available for indoor dining and 28 seats are to be available for outdoor dining. During the months of December 1 through March 31, a total of 99 seats allocated to indoor dining would be provided. Additionally, the Petitioner is requesting to amend the decision to allow for deliveries to be made from Dedham Avenue, instead of solely through the rear parking lot.
- 1.2 The driveway located beside 30 Dedham Avenue is shown on the Plan of Easements described in Exhibit 6 and is owned in part by 30 Dedham Avenue and in part by 50 Dedham Avenue.
- 1.3 The Petitioner has provided a letter from Jeffrey Feuerman, Brookline Development Corp LLC (owner of 50 Dedham Avenue), dated January 7, 2022 (Exhibit 5) stating his approval of the placement of the outdoor dining seating within the driveway easement area subject to the following

conditions. Deliveries from Latina Kitchen and Bar and other business within the subject building are to be conducted from Dedham Avenue and Great Plain Avenue and no deliveries to such business are to be made to the rear parking lot through the 50 Dedham Avenue driveway. Notwithstanding the above, trash-pick from Latina Kitchen and Bar and other business within the subject building through the 50 Dedham Avenue driveway is permissible.

- 1.4 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (number of parking spaces) Required Parking. Under the By-Law, the parking requirement for a 71-seat restaurant with one take-out station is 34 (1 parking space per 3 seats, plus 10 parking spaces for one take-out station). Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority and the provision of additional parking. 30% of 71 seats is 22 seats. As the Petitioner is requesting 28 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. Twenty-two (22) seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 6 seats, which is a waiver of 2 additional parking spaces. Accordingly, a waiver of 36 parking spaces has been requested from April 1 through November. No parking is provided on-site.
- 1.5 Pursuant to Section 5.1.1.3 of the By-Law no change or conversion of a use in a mixed-use structure to a use which requires additional parking shall be permitted unless off-street parking is provided in accordance with Section 5.1.3 for the entire structure or a waiver is granted pursuant to the provisions of Section 5.1.1.6. As there is no parking associated with the property, a waiver under the provisions of Section 5.1.1.6 is required.
- 1.6 The Petitioner has requested to revise Section 3.2 of the Original decision, from the previous: “The restaurant shall contain no more than 100 seats for on-site food consumption and one take-out station.” to now say “The restaurant shall contain no more than 99 seats for on-site food consumption and one take-out station with said seating distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining from April 1 through November 30. During the months of December 1 through March 31 a total of 99 seats shall be allocated to indoor dining.”
- 1.7 The Petitioner has requested to revise Section 3.11 of the Original decision, from the previous: “All loading and deliveries 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. Loading, deliveries and trash pick-up shall be restricted to the rear parking area of the subject site and shall not occur on the public way.” to now say “All loading and deliveries 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. Loading and deliveries shall be permitted to occur from the public way. Trash pick-up shall be restricted to the rear parking area of the subject site.”
- 1.8 The Petitioner appeared before the Design Review Board on March 28, 2022 and obtained approval for the project.
- 1.9 No changes to the interior of the restaurant are proposed by this application.
- 1.10 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Business Center District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed Plan, as conditioned and limited herein, for

the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.

- 1.11 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design 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.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2015-07, Section 4.2; and (2) a Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

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

- 2.0 No Plan modifications are required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 2015-07, dated October 27, 2015, amended May 23, 2017, transferred on May 21, 2019, are ratified and confirmed except as modified herein.

- 3.1 A total of 28 outdoor dining seats as shown in the plans as detailed in Exhibit 2 of the Decision are hereby approved for use from April 1 through November 30, within the driveway as shown in Exhibit 6.
- 3.2 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.3 Outdoor dining is only permitted as long as the safety measures to separate vehicles and people dining can be maintained. During the Covid-19 relief measures that permitted outdoor dining, this has consisted of "Jersey barriers" as provided by the Town. If said barriers are no longer available, the

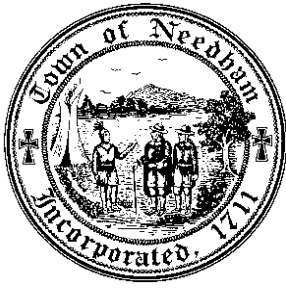
Petitioner shall return to the Planning Board to request some alternate barrier, at which time the Board will seek comment from public safety and DPW departments.

- 3.4 Exercise of the rights under this permit for outdoor seating are subject to continued approval by the abutter at 50 Dedham Avenue to use the entire driveway right of way for outdoor dining by the Petitioner and continued approval by 50 Dedham Avenue to use its driveway for trash pick-up. See Exhibit 5 above.
- 3.5 Section 3.2 of the Original decision is revised to say: "The restaurant shall contain no more than 99 seats for on-site food consumption and one take-out station with said seating distributed as follows: Seventy (71) seats are to be available for indoor dining and twenty-eight (28) seats are to be available for outdoor dining from April 1 through November 30. During the months of December 1 through March 31 a total of 99 seats shall be allocated to indoor dining."
- 3.6 Section 3.11 of the Original decision is revised to say: "All loading and deliveries 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. Loading and deliveries shall be permitted to occur from the public way. Trash pick-up shall be restricted to the rear parking area of the subject site."
- 3.7 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 Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.8 No portion of the outdoor dining area, subject to this Amendment, shall be occupied and utilized by the Petitioner until there shall be filed with the Board documentation of a satisfactory inspection by the Building Commissioner of the as-built condition and the Commissioner certification of the project's compliance with the terms of this Decision.
- 3.9 No other changes were requested nor are permitted through this amendment.
- 3.10 This Site Plan Special Permit Amendment shall lapse on March 28, 2024, 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 March 28, 2024. 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 unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

This approval shall be recorded in the Norfolk District Registry of Deeds. This 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 Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

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

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



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

TOWN OF NEEDHAM
MASSACHUSETTS
PLANNING BOARD
September 19, 2023

Major Project Special Permit No. 2015-07
30 Dedham Avenue (formerly 948 Great Plain Avenue)

Latin-A Group, LLC d/b/a Latina Kitchen and Bar
TRANSFER OF SPECIAL PERMIT
To Metrowest Dining, LLC, dba The Common Room

On September 19, 2023, the Planning Board held a meeting following a written request dated September 14, 2023, from Latin-A Group, LLC d/b/a Latina Kitchen and Bar to Metrowest Dining, LLC, dba The Common Room. Scott McCourt, Manager, Metrowest Dining, LLC requested the transfer of Major Project Site Plan Special Permit No. 2015-07 originally issued to Great Plain Hospitality, LLC d/b/a RFK Kitchen on October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017, transferred to Latin-A Group, LLC on May 21, 2019 and filed with the Town Clerk on May 23, 2019, and amended on March 28, 2022 and filed with the Town Clerk on April 7, 2022. Pursuant to the authority reserved to the Planning Board under Section 3.10 of the October 27, 2015 Special Permit, the Planning Board waived public notice of the hearing.

Scott McCourt, Manager, Metrowest Dining, LLC stated that he intended to operate a full service restaurant under a new name. The type of operation, the number of seats, and the hours of operation will remain unchanged from what was approved in Major Project Site Plan Special Permit No. 2015-07 issued to Great Plain Hospitality, LLC d/b/a RFK Kitchen on October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017, , transferred to Latin-A Group, LLC on May 21, 2019 and filed with the Town Clerk on May 23, 2019, and amended on March 28, 2022 and filed with the Town Clerk on April 7, 2022. No changes are proposed on the site other than possible interior renovations, and no façade changes are proposed.

Decision

On the basis of the evidence presented at the meeting, the Planning Board finds that the proposed transferee intends to operate the business as it had been operated by the prior permit holder. The Planning Board by unanimous vote, after motion duly made and seconded, consents to the transfer by to Latin-A Group, LLC d/b/a Latina Kitchen and Bar to Metrowest Dining, LLC, dba The Common Room, 145 Bonad Road, Chestnut Hill, MA, 02467, of Major Project Site Plan Special Permit No. 2015-07 dated October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017, and transferred to Latin-A Group, LLC on May 21, 2019 and filed with the Town Clerk on May 23, 2019, and amended on March 28, 2022 and filed with

the Town Clerk on April 7, 2022, to use the premises at 30 Dedham Avenue (formerly 948 Great Plain Avenue) as a restaurant operation with an accessory take-out component, subject to the following conditions.

1. The Planning Board's Major Project Site Plan Special Permit Decision No. 2015-07 dated October 27, 2015 and filed with the Town Clerk on October 28, 2015 and amended on May 23, 2017 and filed with the Town Clerk on June 2, 2017, transferred to Latin-A Group, LLC on May 21, 2019 and filed with the Town Clerk on May 23, 2019, and amended on March 28, 2022 and filed with the Town Clerk on April 7, 2022, is incorporated herein by reference and all conditions therein imposed remain in full force and effect except as otherwise authorized herein.
2. The restaurant shall contain the floor plan and dimensions and shall be located on that portion of the locus as shown on the Plan entitled, "948 Great Plain Avenue, Needham, MA" prepared by EMBARC architects, 60 K Street, Third Floor, Boston, MA 02210, Drawing A001, entitled "Site Information," dated October 16, 2015, and Plan entitled "Latina Kitchen and Bar, 30 Dedham Avenue, Outdoor Seating Plan," prepared by reMake Design, dated February 10, 2022, and in accordance with applicable dimensional requirements of the By-Law. Minor movement of fixed equipment, interior partitions, counters or seating is of no concern to the Board. Any changes, revisions or modifications other than changes deemed "minor movement" to the plan shall require approval by the Board.
3. This special permit may not be transferred without the prior approval of the Planning Board, upon such notice and hearing as the Board in its discretion shall deem necessary or appropriate.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Major Site Plan Special Permit amendment shall not take effect until the Petitioner has delivered written evidence of recording to the Planning Board.

Witness our hands this 19th day of September, 2023.

NEEDHAM PLANNING BOARD

Adam Block, Chairman

Natasha Espada

Jeanne S. McKnight

Paul S. Alpert

Artie Crocker

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2023

On this _____ day of September, 2023, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, 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
My Commission Expires:

Copy sent to:

Petitioner - Certified Mail #
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission

Board of Selectmen
Fire Department
Police Department
Parties in Interest
Engineering
Metrowest Dining, LLC

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520

FAX (781) 465-6059

September 12, 2023

Lee Newman
Planning Director
Town of Needham
1471 Highland Avenue
Needham, MA 02492

Re: J. Derenzo Properties, LLC
888 Great Plain Avenue
Proposed Zoning Change

Dear Lee,

In connection with the ongoing efforts to rezone, and ultimately, redevelop the property at 888 Great Plain Avenue (the "Premises"), please accept this letter as a request for an informal discussion with the Board at the September 19, 2023 meeting.

Since our last discussion with the Board, we have held three separate Zoom meetings to gather input and answer questions from neighbors. In addition, we had a meeting and several conversations with the owner of the strip of land situated between the Premises and the Dedham Avenue municipal parking lot. We discussed the possibility of crossing their property to gain access to the parking lot thereby gaining public access to the rear of the Premises. We also discussed possible ways the properties could be reconfigured to mutual benefit. Unfortunately, they informed us that they are not willing to grant any access.

To facilitate the requested discussion, provided herewith please find the most recent version of the proposal, which was previously provided, but is provided again for convenience.

Thank you for your cooperation and consideration. Please let me know if you have any questions or comments or require anything further.

Sincerely,



George Giunta, Jr





① South Elevation - Proposed
1/8" = 1'-0"



2 PERSPECTIVE



Design Resource Team, LLC
546 East Broadway
Boston, MA 02127
617.804.6117
info@drt.boston
www.drt.boston

DRAFT

[illegible]

J. Derenzo Properties

888 GREAT PLAIN AVE

ELEVATIONS - PROPOSED

Project number	221054
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Date	02/14/2023
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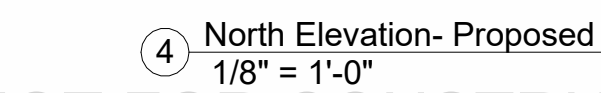
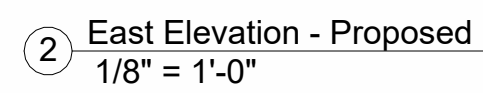
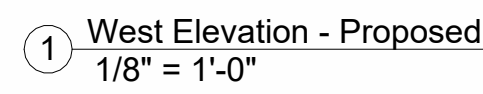
Drawn by	DB
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Checked by	NPL
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A200

Scale	1/8" = 1'-0"
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NOT FOR CONSTRUCTION



NOT FOR CONSTRUCTION



DRAFT

J. Derenzo Properties	
888 GREAT PLAIN AVE	
ELEVATIONS - PROPOSED	
Project number	221054
Date	02/14/2023
Drawn by	DE
Checked by	NPL
A201	
Scale	1/8" = 1'-0"

From: [Agnes Gooray](#)
To: [Planning](#)
Subject: 888 GPA project
Date: Sunday, September 3, 2023 12:20:11 PM

Hello,

I would like to express my concerns over the project on 888 Great Plain Avenue.

1) The proposed project is too big and does not fit with the character of the town. Could the developer at least try to make the new building like it has history and character so it can fit with the character and history of the town. The location is in the DEAD CENTER of the town and "modern" is not what current or future residents are looking for when they think of Needham.

2) I am very concerned with parking for new condos that this building will provide. With the Y pool, the playground and playing fields close by - currently there is parking problem during the sporting events, long weekends, playdates at the playground, events at the Y. I live on Warren Street and my driveway gets blocked all the time. On top of that, Warren St only allows parking on one side, and people end up parking on both. The most notable recent example was 4th of July fireworks. Town posted signs to NOT PARK on Warren street between May and GPA, but street was lined with cars anyway. This is also an evacuation/emergency route for the ambulances and fire trucks. With 26 additional apartments and only 45 parking spots proposed currently, my street will be impossible to pass through, let alone get home or leave the driveway. Whatever number of units is approved to be built, AT LEAST 2 parking spots per bedroom should be required.

3) Safety of pedestrians and traffic on GPA by the 888 GPA lot is crucial while considering this project. There is very heavy foot traffic in this location. There are many kids activities in the center hence many children and adults always walking. The setback exemption requested by the developer should not be approved as it will increase the risk of accidents in that location.

4) The beeping barrier by the entrance/exit that was proposed by the developer to assure safety, will be very noisy. It will add to the noise level during the day, which is already high with traffic, trains etc. and will make it impossible to sleep at night for surrounding residents.

5) Town of Needham Housing Plan Executive Summary which was compiled per Board's request, suggests the density of 18 units per 0.5a - the proposed project at 888 GPA vastly exceeds that recommendation. So the Board asked the residents what town they want to live in, but then proceeded to ignore those recommendations when it comes to the builder like MR. Derenzo??? Is it all just pretending then?

6) Mr. Derenze requested so many building and zoning exceptions for this project, makes one think that he walks on water. Why should he receive a special treatment if everyone else needs to follow the rules? If all the exceptions are granted, all the other developers and builders will ask for them in the future, too. The whole purpose of those regulations and restrictions is to protect the look, feel and traditions of the town. Mr. Derenzo is requesting to be exempt from any laws that were passed for a reason?!

7) Mr. Derenzo claims that he is helping solve the housing crisis. Adding retail space to the building does not help with housing. Why change the zoning for this project? All that is in crisis is housing. In fact, there are empty storefronts in the Center of Needham at the moment and i know of at least 1 business that is soon moving to Wellesley. 888 GPA does not need to add more storefronts, just housing and the number of units that will not jeopardize the safety of Needham residents, especially children.

Regards,

Agnes Gooray

Resident of Warren Street who will be directly affected by the construction of this project and then everything that results from it

From: [Agnes Goorav](#)
To: [Planning](#)
Subject: 888 GPA proposed project
Date: Tuesday, September 5, 2023 12:09:38 PM

Hello,

In addition to my previous email, attached are the pictures from the proposed project packet at 888 GPA.

Per visuals attached, the building currently proposed is outrageously big in relation to the lot. There is no set back on 2 sides of the project which will result in a giant wall when looking at the building from these 2 sides. The setbacks are a law and they are implemented for that very reason, to avoid having building "on top" of each other or, in this case, wall to wall.

Please take a look at the second picture attached. The proposed building is towering over the existing commercial building next door. Is this the look Needham leaders are aiming for? This is a historic town with character.

Could I please request that the planning board members or town representatives visit this location during morning and afternoon rush hours, during the early release day from school, on Saturday morning during the soccer practice at the Y in the fall, during the farmer's market. There is so much activity in this area, so many cars, pedestrians, bikers, scooting kids. Exit on GPA from this building will greatly increase the risk of accidents in that area.

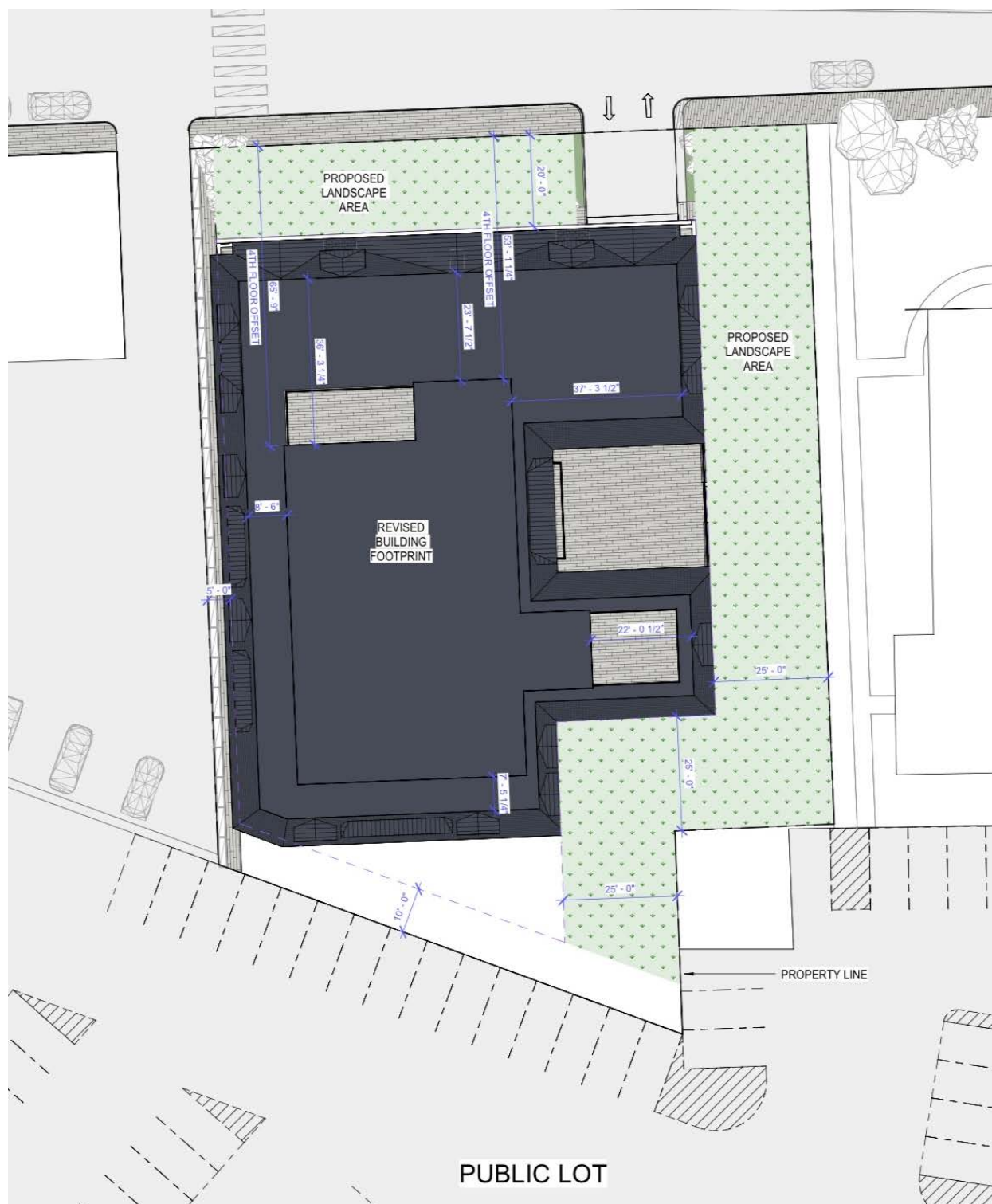
Not to mention that with the existing traffic, potential residents will not be able to get out of their underground parking for a long time.

The noise level in this area is already high (there is the whole different case of how to mitigate the noise in the area) - beeping/flashing barrier will only add to that noise level at all hours of the day, especially at night hours.

There is a need for housing in Needham, but there is no need for more retail space. Current details are moving to different towns - at least 1 I heard of as of recently. In my opinion, this property should remain residential only and number of units should be decreased from 26 to possibly 12-14. It would still increase traffic, but the scope of it would be minimized.

Is the builder going to assist surrounding residents with clean up from the construction? There will be a lot of dust, noise, possible rodent problem due to deep excavation?

Where are all the construction trucks going to park? On Warren St, on GPA, on Pickering St every day for months?





Alexandra Clee

From: noreply@civicplus.com
Sent: Friday, September 15, 2023 12:32 PM
To: Alexandra Clee; Lee Newman; Elisa Litchman
Subject: Online Form Submittal: Contact Planning Board

The following form was submitted via your website: Contact Planning Board

Full Name:: Sue-Anne Woodward

Email Address:: sueanne.woodward@gmail.com

Address:: 833 Great Plain Ave

City/Town:: Needham

State:: MA

Zip Code:: 02492

Telephone Number:: 3392134259

Comments / Questions: Dear Needham Planning Board members,

We are writing to you today to voice our concerns and objections to the proposed redevelopment project at 888 Great Plain Avenue. One of the main arguments made for this project is the need for affordable housing in Needham. As long-time residents of Needham, it is clear that there is such a need however there are many ways that this can be achieved without threatening the safety and quality of life of the residents of Needham. Over at least the last decade we have witnessed every small starter home in Needham that comes on the market get bought up by a developer. These properties could serve the needs of first-time home buyers and downsizers but are being bulldozed by Mr. Derenzo and other developers and replaced by multi-million dollar homes, that are not at all in keeping with the character of our historic town. Most would agree that this is happening at an alarming rate. The observation we have made is that the developer has and continues to create and contribute to the problem of the loss of affordable housing and now wants to sell us a "solution" of high-density apartments in an area that is not zoned for them. They do so at the expense of our quality of life in our center of town and more importantly the cost of the safety of our children and community and to the benefit of their own financial gain. We believe that even discussing the rezoning of 888 (from Residential to Mixed-use) is premature in light of the latest town-wide initiative, HONE, which is a step toward rezoning many parts of town to comply with the MBTA Communities Act. Also, 26 residential units may be too much for 888's half-acre space, especially in light of the housing study which recommended 18 units per acre. We would expect that many impact studies have been made independently by the town on traffic, safety as well as the impact on the commercial area that seems to already be struggling in the town center. We are concerned with the effect of adding three large retail spaces with no additional parking especially when we already have several vacant retail spaces. We would expect that those studies be made public and offer a townwide conversation on the results of those studies before any decisions are made. It seems that this should have already happened. If not we would like to know why. We expect to be informed of when this project is expected to begin and how long it will take if it is approved. What other infrastructure will need to be put in place in terms of public works, fiber optics, etc., and how long the center of town would be disrupted and to what degree? We would like to know that plan and any mitigation that will be put in place. We would expect to be given an estimate of the cost of this project to current taxpayers. Further, we have a strong objection to the spot zoning that has been requested that would be required to make this project realized. Of course, to put an underground parking lot exiting across the street from an extremely busy park used by hundreds of

children and families is unacceptable. This is one of the main safety concerns. We already have a major problem and history of catastrophic deadly accidents at crosswalks in town and this plan will result in increased danger for all those trying to cross just steps away from where the residents of 26 units would need to turn left out of an underground garage onto Great Plain. Finally, we strongly object to the possibility of moving the established buffer zone between commercial and residential lines. This will set a precedent into motion that can allow for this line to continue to push towards the Baptist Church which we are aware is for sale and would be a very desirable property for a developer to continue the argument for rezoning. We do not believe the developer has the best interest of the town. They site the desirability of Needham for families while at the same time undermining it. Sincerely, Sue-Anne Woodward and Michael Crackower
833 Great Plain Avenue

Additional Information:

Form submitted on: 9/15/2023 12:32:09 PM

Submitted from IP Address: 73.47.224.17

Referrer Page: <https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.needhamma.gov%2f1114%2fPlanning-Board&c=E,1,YDcKujdz2xKdRh5GyslqczkUvoMRXF4AwISUyKwD4Unhtr3dH7x729Y2Bp6CWyHYwex1PyilNXmi5mBHMbKecdI8fGLdbdMwO6oXuTj4SbO9RogFdZsmRNc,&typo=1>

Form Address:

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From: [Rick Myers](#)
To: [Planning](#)
Subject: 888 Great Plain Ave
Date: Monday, September 18, 2023 10:13:12 PM

To the Members of the Needham Planning Board,

Re: Proposed Plans for 888 Great Plain Ave.

I appreciate you taking the time to hear the opinions and concerns of the community regarding the proposed development at 888 Great Plain Avenue. I also appreciate that you have expressed your voices for the safety of pedestrians while carefully considering the town-wide benefits of the proposed plan. I would like to express my equal concerns for the development's impact on the town, including the much discussed safety of pedestrians, but also acknowledge the need for more low income housing in Needham.

As part of the effort to maximize the benefit of the development while maintaining the charm and history of the downtown and surrounding neighborhoods, I want to make certain that the Planning Board has fully considered how the development will impact the area. I am certain that there has been some discussion of my concerns, but I would like to ask if the effect on parking, pedestrian safety, and the need for the commercial space has been fully examined by the board.

As you are undoubtedly aware, it is very common during afternoons, and especially weekends, that much of the on-street parking near the intersection of Great Plain and Pickering is occupied with people visiting local retailers, restaurants, Greens Field, and the Y. Significantly, there should be an awareness that the proposed development will bring an influx of delivery vehicles to this property. Some increase will be for the retailers but most will be from the now ubiquitous on-line shopping fleet that roams the town. With the addition of 26 living units, there will be multiple deliveries on a daily basis, especially in the afternoon and evenings when traffic is heaviest. Without dedicated off-street parking, delivery trucks will be forced to double park along Great Plain, further impacting traffic, pedestrians, and bicyclists safety. A quick online search will inform you that the significant increase in delivery vehicles is becoming a well-known problem for urban areas.

In addition, if you spend any time in the area, you know it is common for illegally parked cars to block or obscure the visibility at the intersection and crosswalks as their owners "quickly" pick up food, a family member, or spend time at one of the local businesses because parking spots are not readily accessible. While we can agree that this high demand for parking most often occurs during the afternoon and evening hours, or during weekend sports activities at Greene's field, the introduction of more commercial space and 26 apartment units will ultimately lead to a greater stress on parking spaces and pedestrian safety.

The developer claims that two parking spaces might be added to the existing number, but currently there are only a few spaces in front of 888 Great Plain due to the location of a fire hydrant, the existing curb cut, and the need to maintain sight lines for cars exiting from the municipal lot behind 902 Great Plain Ave. Moving the curb cut from one location to another will not greatly increase the number of spaces, and may cause a decrease depending on the needs to maintain sight-lines for the garage entrance in front of and the driveway next to the property. What's more, there are no dedicated parking spaces in the underground garage set aside for the owners or workers of the commercial spaces. This will undoubtedly force more people to park on the neighborhood streets that are closer than the town's municipal lots.

A traffic assessment, which finds that there will be some impact to traffic flow through the town center, has been performed by the developer, but it does not take into account the number of near-by on-street parking spaces, nor the access for delivery vehicles. In addition, the assessment also does not consider

the location of the curb cut to provide vehicle access to the apartment complex. While it might be intuitive to move it to the east side of the property, and away from the intersection at Pickering St., it would be helpful if an independent traffic engineer reviews the project and determines if that is the best location for an underground garage entrance and what impact it will have on street parking and traffic flow.

Some of these issues can and should be addressed, so I urge the Planning Board to give it significant thought before proceeding with the project. Will the town block a portion of the street parking during the day for deliveries? Equally important, if the goal is to add more housing near the town center, does the increase in commercial space benefit the town or is it primarily benefiting the developer and a desire for commercial sprawl? Lastly, I agree with the consensus opinion that the underground garage access to the proposed building off of Great Plain Ave. is undesirable and urge the Planning Board and developer to continue to work with existing businesses owners for alternative solutions.

I appreciate the challenges that this particular plot of land creates along with the desire to provide more affordable housing. At the same time, I strongly request that the Planning Board consider if they are forcing a solution to one problem only to create bigger ones that will forever change the feel of our small downtown community.

Sincerely,
Richard Myers
78 Warren St.

Model Zoning for the Regulation of Solar Energy Systems¹
Department of Energy Resources
Massachusetts Executive Office of Energy and Environmental Affairs
December 2014

This model zoning and accompanying Guidance were prepared to assist Massachusetts cities and towns in establishing reasonable standards to facilitate development of solar energy systems. These systems include small-, medium- and large-scale as well as both ground-mounted and roof-mounted installations.² The model zoning language provided here is not intended for adoption precisely as it is written. Communities will need to carefully consider how this language may be modified to suit local conditions and where it should be inserted into an existing Zoning Bylaw/Ordinance. Further, it is highly recommended that any language adapted from this model be reviewed by municipal counsel prior to adoption.

As small-, medium-, and large-scale ground-mounted and roof-mounted solar energy systems become more prevalent in Massachusetts, many communities are attempting to regulate the installation of these systems through their Zoning Bylaw/Ordinance. Developing these regulations has been particularly challenging for a number of reasons. Most notably, the Massachusetts General Laws contains several provisions that specifically address the ability of local governments to regulate solar energy systems and/or to protect solar access from development or vegetation (shading) on adjacent properties. While the language within Chapter 40A Section 3 states that a local government may not prohibit these uses, it does say they cannot be “unreasonably regulated” without providing guidance on what that particular phrase means. The Solar Energy Systems Policy Guidance, which accompanies this model zoning and succeeding sections of this document provide more explanation regarding the implications of the statutes on this issue and its significance to local zoning.

Unlike model bylaws/ordinances typically developed by the Commonwealth, the regulatory language provided here is not packaged as a “stand-alone” section of a Zoning Bylaw/Ordinance. With ground-mounted and roof-mounted solar energy systems, the statutory framework and “accessory” nature of some of these installations lend themselves to a different approach. This model zoning therefore assumes that municipalities will have many “typical” sections within their Zoning Bylaw/Ordinance and that several of these sections would be amended to address this issue. For the purposes of this model zoning, the Bylaw/Ordinance sections that are amended include:

¹ This material is based upon work supported by the U.S. Department of Energy under Award Number DE-EE0005692. This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.

² This material was prepared by the Horsley Witten Group.

*The Definitions Section;
Allowable Uses;
Dimensional Requirements; and
Site Plan Review.*

There is also further discussion intended to help communities regulate these systems in the context of a Local Historic District.

Definitions

Commentary: Within a Zoning Bylaw/Ordinance, the Definitions Section usually stands alone. Definitions are also sometimes included as a sub-section within other sections of the Zoning Bylaw/Ordinance. For example, terms related to the protection of water resources may be included in a water resource protection overlay district section. We recommend that the following terms be added to the general Definitions Section of the Zoning Bylaw/Ordinance.

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Solar Access: The access of a solar energy system to direct sunlight.

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Commentary: While it is anticipated that installed solar energy systems will most frequently be photovoltaic, this model zoning uses the statutory definition of a solar energy system, which is broader and permits the installation of solar thermal systems as well.

Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large-Scale: An Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Solar Energy System, Medium-Scale: An Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).

Solar Energy System, Off-Grid: A photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.

Solar Energy System, Passive: A solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Solar Energy System, Roof-Mounted: An Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).

Solar Energy System, Small-Scale: An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).

Solar Thermal System: An Active Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling.

Use Regulations

Commentary: Within a Zoning Bylaw/Ordinance, the Use Regulations describe which land uses are allowed within different zoning districts of the community, and which permits are required. The Use Regulations typically include a Use Table and/or a narrative description of the principal and accessory uses that are allowed, prohibited and/or allowed only through a Special Permit within each zoning district.

Pursuant to Chapter 40A Section 3, a Massachusetts municipality may not prohibit or unreasonably regulate solar energy systems except where necessary to protect public health, safety or welfare. Therefore, although these systems must be allowed within the community, they may be regulated where necessary to protect public health, safety or welfare through other provisions of the Zoning Bylaw/Ordinance. For example, these systems will still need to meet dimensional regulations and other performance standards necessary to protect public health, safety or welfare. In addition, a Site Plan Review process may be used to collect information that will ensure compliance with the performance standards in the Zoning Bylaw/Ordinance. Where some communities include Design Review in their permit processes, these communities will need to balance their desire for certain design objectives with the Commonwealth's protection of solar energy systems. Finally, as drafted this model zoning requires a special permit for a large-scale ground-mounted facility in a residential district and prohibits such systems in another residential district. While a special permit is discretionary, and language expressing uncertainty and cautioning communities about the lack of case law regarding Chapter 40A Section 3 has been included, the Attorney General's Office has approved local

zoning using this permitting mechanism. While DOER cannot offer a definitive interpretation, limited use of special permits when applied to the largest of solar systems, especially when these systems are allowed elsewhere by right, may well be reasonable regulation. In DOER's view, given the plain language of the statute, it is prudent to allow opportunity to site all scales of solar energy systems somewhere in the community. These provisions are described in more detail in the following sections. A more detailed discussion of DOER's understanding of Chapter 40A Section 3 is provided in the Policy Guidance for Regulating Solar Energy Systems that serves as a companion piece to this regulatory guidance.

As a cautionary note, while regulating aesthetics can arguably be considered a matter of protecting public welfare, attempting to place restrictions on materials, setbacks or height, and other similar items, as related to aesthetics, can create roadblocks to actual installation. It is therefore not recommended that communities regulate aesthetics of solar energy systems, or that they do so very cautiously, due to the strong statutory protections in Chapter 40A Section 3.

Two examples are provided in this section for how roof-mounted, small-scale ground-mounted, medium-scale ground-mounted, and large-scale ground-mounted solar energy systems can be incorporated into a municipality's Use Regulations. In these examples, roof-mounted solar energy systems, regardless of size, are allowed as-of-right throughout the community. As-of-right siting means that development may proceed without the need for a Special Permit, variance, amendment, waiver, or other discretionary approval. These projects cannot be prohibited, and can be built once a building permit has been issued by the inspector of buildings, building commissioner or local inspector.

For ground-mounted systems, there is a distinction between how small-scale, medium-scale and large-scale systems are treated and where each are allowed as-of-right, via site plan review, or by special permit. The model zoning allows small-scale ground-mounted systems as-of-right throughout the community. These are of a size that would service a house, small businesses, or small municipal building.

The model zoning allows medium-scale ground-mounted systems as-of-right in all districts except residential zoning districts; in these districts Site Plan Review is required. This means that medium-scale ground-mounted systems cannot be prohibited, and that DOER considers Site Plan Review reasonable regulation. Site Plan Review is discussed in more detail later in this document, but in general it establishes criteria for the layout, scale, appearance, safety, and environmental impacts of certain types and/or scales of development. Typically, site plan approval must be obtained before the building permit is issued. Since medium-scale ground-mounted systems can reach up to approximately an acre in size, DOER believes it is reasonable and appropriate to provide more regulatory scrutiny via Site Plan Review for these projects in residential districts to protect public health, safety, or welfare.

As drafted, the model zoning requires Site Plan Review for large-scale ground-mounted systems within most zoning districts, a special permit in one residential district, and prohibits such systems in another residential district. However, communities should remember that the language of the zoning exemption for solar energy systems is imprecise. While some communities already require a Special Permit to install a large-scale ground mounted solar facility, and/or

restrict them to certain districts, it is not clear whether these regulations are consistent with the Chapter 40A Section 3 mandate that they be reasonable and necessary to protect public health, safety, or welfare.

Connection to the Massachusetts Green Communities Designation and Grant Program

Recognizing the uncertainty around how regulations may or may not be interpreted as reasonable, DOER allows communities to meet Green Communities Criterion One by zoning for the as-of-right installation of a solar facility of at least an acre in size in a designated location. For more information on the Green Communities Designation and Grant Program, please visit: <http://www.mass.gov/eea/energy-utilities-clean-tech/green-communities/>.

Siting Preferences

Where a solar facility is sited, as well as placement on the site once selected, is an important consideration, particularly in regard to large-scale ground mounted facilities. DOER strongly discourages locations that result in significant loss of land and natural resources, including farm and forest land, and encourages rooftop siting, as well as locations in industrial and commercial districts, or on vacant, disturbed land. Significant tree cutting is problematic because of the important water management, cooling, and climate benefits trees provide.

In regard to farm properties, rooftops are preferable. If roof space is inadequate non-productive, non-arable agricultural land is the second choice. Should this also prove infeasible or inadequate a dual use of land design concept could preserve productive farmland by continuing crop production underneath high-mounted and well spaced panels. Finally, if none of these are feasible or they are inadequate the least productive land should be used first to minimize the loss of productive food/crop land.

Overlay Zoning Districts

Overlay zoning districts are one zoning approach that could be used to permit solar energy systems, and in ways not allowed under the base zoning districts. For example, the model zoning as drafted requires Site Plan Review for medium-scale ground mounted solar energy systems in residential districts. An overlay district could be used to permit such facilities without Site Plan Review in a portion of these residential districts where Site Plan Review is deemed unnecessary, while retaining the review for the balance of the districts.

In addition, some communities may wish to conduct a feasibility analysis to determine where large-scale solar energy systems are most appropriate within the municipality and use an overlay zoning district approach to encourage the siting of facilities in the most feasible locations. Once an area has been established through a thoughtful and analytical process, the municipality could enact overlay zoning legislation to prioritize these areas for large-scale solar energy systems. Many Massachusetts communities have already taken this approach through adoption of a large-scale ground-mounted solar overlay district, often based on DOER's [Model As-of-Right Zoning Bylaw: Allowing Use of Large-Scale Ground-Mounted Solar Photovoltaic Installations](#).

Agricultural Exemption:

In addition to the exemption pertaining to solar energy systems Section 3 of Chapter 40A also exempts agricultural uses from zoning regulations that would otherwise apply. Thus, when the majority of the power from a solar energy system (or a wind turbine) is integral to farm production construction and operation of the system would covered by the exemption. Questions on the applicability of the agricultural exemption to solar energy systems should be directed to Gerry Palano at the Dept. of Agricultural Resources (Gerald.Palano@state.ma.us or 617-626-1706).

Example 1 (Use Tables):

	Residential-1 (R1)	Residential-2 (R2)	Residential-3 (R3)	Commercial (C)	Industrial (I)	Public (P)
<u>PRINCIPAL USE</u>						
Medium-Scale Ground-Mounted Solar Energy System	SPR	SPR	SPR	Y	Y	Y
Large-Scale Ground-Mounted Solar Energy System	SP	N	SPR	SPR	SPR	SPR

Y = Allowed

SP = Special Permit

N = Prohibited

SPR = Site Plan Review

	Residential-1 (R1)	Residential-2 (R2)	Residential-3 (R3)	Commercial (C)	Industrial (I)	Public (P)
<u>ACCESSORY USE</u>						
Roof-Mounted Solar Energy System	Y	Y	Y	Y	Y	Y
Small-Scale Ground-Mounted Solar Energy System	Y	Y	Y	Y	Y	Y
Medium-Scale Ground-Mounted Solar Energy System	SPR	SPR	SPR	Y	Y	Y

Y = Allowed

SP = Special Permit

N = Prohibited

SPR = Site Plan Review

Example 2 (Uses listed):

1.0 Residential District Uses

1.1 Uses Permitted

1.1.1 Roof-Mounted Solar Energy Systems

1.1.2 Small-Scale Ground-Mounted Solar Energy Systems

1.2 Uses Allowed through Site Plan Review

- 1.2.1 Medium-Scale Ground-Mounted Solar Energy Systems
- 1.2.2 Large-Scale Ground-Mounted Solar Energy Systems in the R3 District

1.3 Uses Allowed via Special Permit

- 1.3.1 Large-Scale Ground-Mounted Solar Energy Systems in the R1 District

2.0 Non-Residential District Uses

2.1 Uses Permitted

- 2.1.1 Roof-Mounted Solar Energy Systems
- 2.1.2 Small-Scale Ground-Mounted Solar Energy Systems
- 2.1.3 Medium-Scale Ground-Mounted Solar Energy Systems

2.2 Uses Allowed through Site Plan Review

- 2.2.1 Large-Scale Ground-Mounted Solar Energy Systems

Dimensional Regulations

Commentary: In most cases, the existing dimensional standards in a Zoning Bylaw/Ordinance will allow for the development of small-, medium-, and large-scale solar energy systems. However, if a municipality finds alternate dimensional standards are necessary to allow solar energy systems while protecting public health, safety, or welfare, it may impose them. As a reminder, while regulating aesthetics can arguably be considered a matter of protecting public welfare, attempting to place restrictions on dimensional standards, such as setbacks or height, as they relate to aesthetics can create roadblocks to actual installation. It is therefore not recommended that communities regulate aesthetics of solar energy systems due to the strong statutory protections in Chapter 40A Section 3, or that they do so very carefully.

With regard to more basic dimensional requirements such as setbacks from the property line, municipalities may also find that adjustments can be made to encourage broader use of solar energy systems. Below is a series of dimensional regulation amendments that a municipality could adopt to further encourage small-, medium-, and large-scale ground-mounted and roof-mounted solar energy systems, or simply clarify requirements pertaining to them.

Height

Commentary: It is recommended that for purposes of height, roof-mounted solar energy systems should be considered similar to chimneys, television antennae, roof-top mechanical equipment and other appurtenances that are usually either allowed a much higher maximum height (e.g., 100 feet instead of 35 feet) or are exempted altogether from building height requirements. Such

an exemption can be stated in the definition of “Building Height” or through language similar to that provided in the following example.

It is recommended that existing zoning district height limitations apply for all ground-mounted solar energy systems. If the ground-mounted solar energy system is accessory to a principal building or structure on a lot, then the height restriction for accessory structures would apply. If the ground-mounted solar energy system is the principal structure on a lot, then the height restriction for principal structures would apply.

Example:

1.0 Building Height Regulations

1.1 Exemptions

1.1.1 Mechanical equipment and appurtenances necessary to the operation or maintenance of the building or structure itself, including chimneys, ventilators, plumbing vent stacks, cooling towers, water tanks, broadcasting and television antennae and roof-mounted solar energy systems.

Setbacks

Commentary: It is recommended that small- and medium-scale ground-mounted solar energy systems that are accessory to a primary building or structure on a lot be provided with more flexible setback requirements than those that would typically apply to a primary structure. Many communities already provide some flexibility for “accessory structures” like sheds, allowing these to be closer to the lot line than the primary structure. For example, where a front/side/rear yard setback for the primary structure may be 50 feet, setbacks of 20 feet may be allowed for accessory structures. When ground-mounted solar energy systems are developed as accessory structures to a home, business or other building or structure, they should be afforded at least the same flexibility.

If a community does not have this type of reduced setback already built into the Zoning Bylaw/ Ordinance, a provision could be added that effectively reduces the setback distance just for this use. For example, if the community has a dimensional table, a special footnote could be added to the dimensional table as indicated in the following examples. It should be noted that often times there is a distinction between how accessory structures are regulated in a residential zoning district and how they are regulated in a commercial or industrial district. Therefore, communities should ensure that provisions for flexible setbacks for small- and medium-scale ground-mounted solar energy systems are incorporated wherever appropriate.

The first example applies a reduction of 50% to the otherwise required setbacks for accessory uses. The value of 20 feet is used in the second example; however, this may be altered based on local conditions. For example, in some communities, particularly urban communities, the required side- and rear-yard setback distances may be shorter than 20 feet. In these

circumstances, the existing shorter setback distances should remain for small- and medium-scale ground-mounted solar energy systems.

As opposed to small- and medium-scale ground-mounted solar energy systems, which are typically sited as accessory to a principal building or structure on a lot, large-scale ground-mounted solar energy systems are usually sited as principal structures. Whenever a solar energy system is sited as a principal structure on a lot, it is recommended that the setback requirements for principal structures in that zoning district apply. Regardless of the scale of the system or the minimum setback required solar energy system installers often allow a sufficient setback to avoid the issue of shading by vegetation on neighboring properties.

Placement of solar energy systems in front yards should be avoided if at all possible. However, in DOER's view the statutory protections for solar energy systems create a situation where a ground-mounted array could not be prohibited outright in a front yard, so the language provided in the following example includes a standard for the front yard setback. DOER recognizes the concerns this may raise in residential neighborhoods and acknowledges that communities should work with property owners to find appropriate locations for ground-mounted systems in side or rear yards.

Example Dimensional Table Footnotes for Accessory Installations:

- (1) Small- and medium-scale ground-mounted solar energy systems accessory to principal use may be located no closer than [1/2 of the setback that would otherwise apply] from the front, side or rear lot line. All ground-mounted solar energy systems in residential districts shall be installed either in the side yard or rear yard to the extent practicable
- (2) Small- and medium-scale ground-mounted solar energy systems accessory to a principal use may be located no closer than [twenty (20) feet] from the front, side or rear lot line. All ground-mounted solar energy systems in residential districts shall be installed either in the side yard or rear yard to the extent practicable.

Lot Coverage

Commentary: A number of communities use "maximum lot coverage" or "maximum impervious surface" as one of their dimensional standards. While it is clear that such features as driveways or buildings would be included in any calculation of lot coverage, many other features may be more ambiguous depending on how clearly the definition in the Zoning Bylaw/Ordinance is written. Awnings, porches, decks and similar features can often become a matter of dispute. Regardless of the definition, it is recommended that solar energy systems with grass or another pervious surface under them be exempted from lot coverage or impervious surface calculations. If the area is to be paved or otherwise rendered impervious then this land area should in fact count toward any coverage or impervious surface limit. It is also important to note that this recommended exemption is not intended to apply to municipal stormwater regulations, as the panels could have the effect of altering the volume, velocity, and discharge pattern of stormwater runoff. The following provision could be included as a footnote to the Dimensional Table related

to maximum lot coverage and impervious cover requirements, or as a separate provision within the dimensional regulations.

Example:

Solar energy systems shall not be included in calculations for lot coverage or impervious cover as defined in [INSERT SECTION REFERENCE FOR ‘DEFINITIONS’].

Site Plan Review Requirements and Performance Standards

Commentary: Although not specifically addressed under Chapter 40A, Site Plan Review is included within the local Zoning Bylaws/Ordinances of many Massachusetts communities. Site Plan Review is meant to enforce clear and fair design standards for different types of development. This is typically done through a coordinated review process that circulates development applications among, and invites input from, all local boards and commissions that might permit a project, including Local Historic District Commissions as applicable. Site Plan Review is usually triggered by either specific types of uses (e.g., commercial or industrial development), or certain scales of uses (e.g., non-residential buildings over 5,000 square feet).

Typically, Site Plan Review procedures and requirements are provided within a separate section of the Zoning Bylaw/Ordinance. However, there are instances when communities provide separate Site Plan Review provisions and procedures within a section pertaining to a particular use or development type (e.g., Planned Business Development, etc.). Consistent with the Legislature’s intent to facilitate the siting of solar energy, communities should shape the Site Plan Review provisions of their Zoning Bylaws/Ordinances to enable large-, medium- and small-scale solar energy system projects to proceed without undue delay.

Model language for Site Plan Review for medium-scale ground-mounted solar energy systems is provided in the following Example 1. As discussed earlier in this document, Site Plan Review may be appropriate when medium-scale ground-mounted systems are sited within residential districts. The model language provided in Example 1 below is based on, but is less stringent than, the provisions in the Massachusetts DOER [Model As-of-Right Zoning Bylaw: Allowing Use of Large-Scale Ground-Mounted Solar Photovoltaic Installations](#).

Example 2 provides model language for Site Plan Review for large-scale ground-mounted solar energy systems when they are permitted as of right. As discussed earlier in this document, Site Plan Review may be appropriate for large-scale ground-mounted systems when they are sited anywhere within the community. The model language provided in Example 2 below is based on the provisions in the Massachusetts DOER [Model As-of-Right Zoning Bylaw: Allowing Use of Large-Scale Ground-Mounted Solar Photovoltaic Installations](#). Example 2 is also intended for use in concert with the special permit language in the next section of this model zoning.

Example 3 provides model language for roof-mounted and small-scale ground-mounted systems when they are part of a larger project where Site Plan Review is triggered through another threshold (e.g., commercial development, non-residential buildings over 5,000 square feet, etc.). It is important to note that the installation of roof-mounted or small-scale ground-mounted solar

energy systems does not trigger Site Plan Review on its own. However, when such systems are included as part of a larger development proposal that requires Site Plan Review, the municipality has the opportunity to review the roof-mounted or small-scale ground-mounted solar energy systems as part of the larger proposal.

As discussed earlier in this document, while regulating aesthetics can arguably be considered a matter of protecting public welfare, attempting to place restrictions on solar energy systems as they relate to aesthetics can create roadblocks to actual installation. It is therefore not recommended that communities regulate aesthetics of solar energy systems, or that they do so very cautiously, due to the strong statutory protections in Chapter 40A Section 3. However, where communities already have Site Plan Review standards that relate to aesthetics, such as screening requirements, these standards should also apply to solar energy systems. In other words, solar energy systems should not be singled out and regulated more stringently than other uses that require Site Plan Review; however, they can be held to the same level of restrictions that are in place for other uses.

Example 1 (Site Plan Review provisions for medium-scale ground-mounted solar energy systems in residential zoning districts):

1.0 Site Plan Review

1.1 Applicability

1.1.1 Medium-scale ground-mounted solar energy systems proposed within residential zoning districts shall undergo Site Plan Review prior to construction, installation or modification as provided in this section.

1.2 Site Plan Document Requirements

Pursuant to the Site Plan Review process, the project proponent shall provide the following documents, as deemed applicable by the Site Plan Review Authority:

1.2.1 A site plan showing:

- (a) Property lines and physical features, including roads, for the project site;
- (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- (c) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;

- (d) Documentation of the major system components to be used, including the panels, mounting system, and inverter;
- (e) Name, address, and contact information for proposed system installer;
- (f) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- (g) The name, contact information and signature of any agents representing the project proponent; and
- (h) Zoning district designation for the parcel(s) of land comprising the project site.

If the following are not addressed in existing site plan review regulations, then the community may wish to include them:

- (i) *Locations of active farmland and prime farmland soils, wetlands, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the DEP.*
- (j) *Locations of floodplains or inundation areas for moderate or high hazard dams;*
- (k) *Locations of local or National Historic Districts;*

- 1.2.2 Proof that the project proponent will meet the required Site Plan Review notification procedures.

Commentary: Provision 1.2.2 above should reference the municipality’s existing Site Plan Review public and/or abutter notification procedures if applicable. For example, a community may require projects that are subject to Site Plan Review to notify all property owners within 100 feet of the project site.

1.3 Site Plan Review Design Standards

- 1.3.1 Standards for medium-scale ground-mounted solar energy systems proposed within residential zoning districts

- 1.3.1.1 Utility Notification - No grid-intertie photovoltaic system shall be installed until evidence has been given to the Site Plan Review Authority that the owner has submitted notification to the utility company of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

1.3.1.2 Utility Connections - Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

1.3.1.3 Safety - The medium-scale ground-mounted solar energy system owner or operator shall provide a copy of the Site Plan Review application to the local fire chief. All means of shutting down the solar installation shall be clearly marked.

Commentary: With regard to issues of access and safety, communities looking to adopt zoning for medium-scale solar energy systems should be aware of any unique local requirements that could apply. For example, if the fire department will want an Emergency Response Plan as part of approval, this should be folded into the review process as seamlessly as possible.

1.3.1.4 Visual Impact – Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.

1.3.1.5 Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.

Commentary: As drafted, this model zoning does not require medium-scale ground mounted solar energy systems to be fenced, but this is something communities will want to consider. Regardless, many project proponents will find fencing prudent.

Example 2 (Site Plan Review provisions for large-scale ground-mounted solar energy systems):

1.0 Site Plan Review

1.1 Applicability

1.1.1 Large-scale ground-mounted solar energy systems shall undergo Site Plan Review prior to construction, installation or modification as provided in this section.

1.2 Site Plan Document Requirements

Pursuant to the Site Plan Review process, the project proponent shall provide the following documents, as deemed applicable by the Site Plan Review Authority:

1.2.1 A site plan showing:

- (a) Property lines and physical features, including roads, for the project site;
- (b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
- (c) Blueprints or drawings of the solar energy system signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the solar collector;
- (d) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electric Code (527 CMR 12.00) compliant disconnects and overcurrent devices;
- (e) Documentation of the major system components to be used, including the panels, mounting system, and inverter;
- (f) Name, address, and contact information for proposed system installer;
- (g) Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- (h) The name, contact information and signature of any agents representing the project proponent; and
- (i) Zoning district designation for the parcel(s) of land comprising the project site.

If the following are not addressed in existing site plan review regulations, then the community may wish to include them:

- (j) *Locations of active farmland and prime farmland soils, wetlands, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the DEP.*
- (k) *Locations of floodplains or inundation areas for moderate or high hazard dams;*
- (l) *Locations of local or National Historic Districts;*

- 1.2.2 Documentation of actual or prospective access and control of the project site (see also Section 1.3.1.1);
- 1.2.3 An operation and maintenance plan (see also Section 1.3.1.2);
- 1.2.4 Proof of liability insurance; and
- 1.2.5 A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required Site Plan Review notification procedures and otherwise inform abutters and the community.

Commentary: Provision 1.2.6 above should reference the municipality's existing Site Plan Review public and/or abutter notification procedures if applicable. For example, a community may require projects that are subject to Site Plan Review to notify all property owners within 100 feet of the project site.

1.3 Site Plan Review Design and Operation Standards

1.3.1 Standards for large-scale ground-mounted solar energy systems

- 1.3.1.1 Site Control - The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar energy system.
- 1.3.1.2 Operation & Maintenance Plan - The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar energy system, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- 1.3.1.3 Utility Notification - No grid-intertie photovoltaic system shall be installed until evidence has been given to the Site Plan Review Authority that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
- 1.3.1.4 Lighting - Lighting of large-scale ground-mounted solar energy systems shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy system shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

- 1.3.1.5 Signage - Signs on large-scale ground-mounted solar energy systems shall comply with a municipality's sign bylaw/ordinance. A sign consistent with a municipality's sign bylaw/ordinance shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system.
- 1.3.1.6 Utility Connections - Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- 1.3.1.7 Emergency Services – The large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

Commentary: With regard to issues of access and safety, communities looking to adopt zoning for large-scale solar energy facilities should be aware of any unique local requirements that could apply.

- 1.3.1.8 Land Clearing, Soil Erosion and Habitat Impacts - Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of solar energy system or otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.

1.3.2 Monitoring and Maintenance

- 1.3.2.1 Solar Energy System Installation Conditions - The large-scale ground-mounted solar energy system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief, Emergency Management Director, and Emergency Medical Services. The owner or operator

shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way.

1.3.2.2 Modifications - All material modifications to a large-scale ground-mounted solar energy system made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

1.3.3 Abandonment or Decommissioning

1.3.3.1 Removal Requirements

Any large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned consistent with Section 1.3.3.2 of this bylaw/ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

1.3.3.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner

shall agree to allow entry to remove an abandoned or decommissioned installation.

Commentary: Recognizing that other remedies, such as a tax lien, are available to communities in the event an abandoned facility is legitimately putting public safety at risk this model zoning does not require the provision of surety to cover the cost of removal in the event the municipality must remove the installation and remediate the landscape. Communities can, however, require surety in circumstances where a valid planning purpose for doing so exists.

Commentary: As drafted, this model zoning does not require large-scale ground mounted solar energy systems to be fenced, but this is something communities will want to consider. Regardless, many project proponents will find fencing prudent.

Example 3 (Site Plan Review provisions for roof-mounted and small-scale ground-mounted solar energy systems as part of a larger project that triggers Site Plan Review):

1.0 Site Plan Review

1.1 Site Plan Document Requirements

1.1.1 Requirements for Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems - Where these solar energy systems may be accessory to a use allowed through Site Plan Review, the Site Plan Review shall include review of their adequacy, location, arrangement, size, design, and general site compatibility.

1.1.1.1 Roof-Mounted Solar Energy Systems – For all roof-mounted systems, the applicant shall provide:

- (a) The shortest distance between the solar collector and all edges of the roof.
- (b) The distance between the solar collector and any other existing rooftop features such as chimneys, spires, access points, etc.
- (c) The height of the solar collector both from finished grade and, where applicable, from the finished surface of the roof.

1.1.1.2 Small-Scale Ground-Mounted Solar Energy Systems – For all ground-mounted systems, the applicant shall provide:

- (a) The distance between the proposed solar collector and all property lines and existing on-site buildings and structures.
- (b) The tallest finished height of the solar collector.
- (c) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.

1.1.1.3 System Components – The Plan must include documentation of the major system components to be used, for example the panels, mounting system, and inverter.

1.1.1.4 Installer Details – The Plan must include the name, address, and contact information for proposed system installer.

1.2 Site Plan Review Design Standards

1.2.1 Standards for roof-mounted and small-scale ground-mounted solar energy systems

1.2.1.1 Utility Notification - No grid-intertie photovoltaic system shall be installed until evidence has been given to the Site Plan Review Authority that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

1.2.1.2 Emergency Access - Solar energy systems shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency egress from the roof.

(a) For buildings with pitched roofs, solar collectors shall be located in a manner that provides a minimum of one three-foot wide clear access pathway from the eave to the ridge on each roof slope where solar energy systems are located as well as one three-foot smoke ventilation buffer along the ridge.

(b) Residential rooftops that are flat shall have a minimum three-foot wide clear perimeter and commercial buildings that are flat shall have a minimum four-foot wide clear perimeter between a solar energy system and the roofline, as well as a three-foot wide clear perimeter around roof-mounted equipment such as HVAC units.

(c) To the extent practicable, the access pathway shall be located at a structurally strong location on the building (such as a bearing wall).

Commentary: Building and Fire Department personnel should be involved in the development of emergency access standards, and any zoning standards that are adopted should be consistent with local building and fire codes.

1.2.1.3 Safety – No roof-mounted solar energy system shall be located in a manner that would cause the shedding of ice or snow from the roof into a porch, stairwell or pedestrian travel area.

Special Permits

Commentary: Special Permits are addressed in Chapter 9 of the Zoning Act, and most Massachusetts communities have regulations pertaining to them within their zoning bylaw or ordinance. Below is model language for municipalities requiring special permits for large-scale ground-mounted solar energy systems. It is intended to be adopted and implemented alongside Site Plan Review language for large-scale ground-mounted systems included as Example 2 in this model zoning. Rather than include separate special permit standards applicable specifically to large-scale ground-mounted solar energy systems, this language simply directs that a permit be issued pursuant to the already established special permit bylaw/ordinance of the community.

Municipalities will, however, want to audit their special permit language, especially the approval standards, for compatibility with the siting of large-scale ground-mounted solar energy systems. Such systems should have far lower impacts than commercial or industrial uses that often require issuance of special permit, and communities should keep in mind the requirement in Chapter 40A Section 3 that any regulations pertaining to solar energy systems be reasonable.

1.0 Special Permit with Site Plan Review

1.1 Special Permit Requirements

- 1.1.1 Where required a special permit shall be issued prior to construction, installation or modification of any large-scale ground-mounted solar energy system. The special permit granting authority shall include as part of its special permit review and proceedings all the provisions and requirements of the Site Plan Review standards applicable to large-scale ground-mounted solar energy systems.

Pre-Existing Non-Conforming Uses and Structures

Commentary: Alterations, extensions and structural changes to pre-existing non-conforming uses and structures (e.g., existing buildings that do not meet the dimensional requirements of the Zoning Bylaw/Ordinance) that intensify non-conformities or result in additional non-conformities may not be allowed beyond a certain threshold or may require a Special Permit pursuant to the local Zoning Bylaw/Ordinance. It is recommended that the installation of roof-mounted or small-scale ground-mounted solar energy systems associated with pre-existing non-conforming uses or structures be exempt from this requirement. An example provision is provided below. Communities not comfortable with providing this exemption to small-scale ground mounted systems due to their potential to be located on very small lots may wish to apply Site Plan Review or continue to require a Special Permit where this can be justified to protect public health, safety, or welfare. As to roof mounted systems on non-conforming properties, given the exemption afforded solar energy systems, DOER believes it would be unreasonable to disallow them or require a Special Permit even when installation would exacerbate a pre-existing building height non-conformity.

Example:

1.0 Pre-Existing Non-Conforming Uses and Structures

1.1 Improvements that do not change the use or the basic exterior characteristics or appearance of the building or structure are allowed. Such improvements include but are not limited to the following:

1.1.1 Installation or replacement of solar energy systems.

Historic Districts

Commentary: Many communities in the Commonwealth have adopted Local Historic Districts to protect and preserve buildings, landscapes and neighborhoods of historic significance. In recent years, conflict has occasionally arisen about the installation of solar energy systems within these districts on historic buildings and structures, since some argue that they have adverse impacts on the visual appearance and integrity of the buildings and structures.

As described in the DOER Policy Guidance for Regulating Solar Energy Systems, Local Historic District Commissions must consider the policy of the Commonwealth to encourage the use of solar energy systems and to protect solar access when considering issuance of a certificate of appropriateness for a solar energy system. However, thoughtful design guidelines can help ensure that solar energy systems are sited while the goals of historic preservation continue to be achieved.

Design guidelines can require that solar energy systems not be visible from public areas, to the greatest extent practicable. When it is not feasible (either physically or economically) to locate solar energy systems out of the public eye, solar energy systems can be required to be designed to certain architectural standards (e.g., building-integrated, use of solar shingles) to the greatest extent practicable. However, these options may be infeasible as well due to the high cost and low performance of many of these technologies. To meet these challenges, Local Historic District Commissions are encouraged to write design guidelines that support the development of solar energy systems and are sensitive to the historic preservation goals of the Commission.

MEMORANDUM

TO: Planning Board

FROM: Lee Newman, Director of Planning and Community Development

DATE: September 16, 2023

SUBJECT: **Zoning for Solar Energy Systems**

I am attaching to this memo a draft zoning approach for solar energy systems. Briefly the approach taken defines the types of solar energy systems to be authorized and then establishes a new by-law section for Solar Energy Accessory Uses which names the districts where the use would be permitted and details the terms under which the defined use would be authorized. I have highlighted in the attached zoning approach the key provisions which require further Planning Board policy discussion. A brief overview of the key components found in the zoning approach are below.

1. Key defined accessory uses being permitted are as follows:

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:

- a. Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
- b. Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
- c. Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
- d. Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,500 square feet of surface area or less.
- e. Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,500 square feet, but less than 40,000 square feet of surface area.
- f. Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
- g. Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.

- h. Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

2. Named districts where a specified use would be permitted and circumstances where a site plan review would be required.

- a. Roof-mounted Solar Energy Systems would be permitted as-of-right in all use districts.
- b. In residential districts: Small-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies would be permitted as-of-right in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems would be permitted subject to site plan review by the Special Permit Granting Authority.
- c. In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems would be permitted as-of-right in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies would be permitted subject to site plan review by the Special Permit Granting Authority. The same regulations would apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.

3. Lot Coverage

- a. Active Solar Energy Systems are not treated as buildings as defined in the Needham Zoning By-Law. However, for the purpose of regulating lot coverage, the area of Active Solar Energy Systems is counted toward the Maximum Percentage (%) Lot Coverage as defined in the Intensity Regulations provided in the Needham Zoning By-Laws for the affected district.
- b. A Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed counts toward Maximum Percentage (%) Lot Coverage.
- c. To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface is not included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building's footprint - that is already counted).

3. Height for Building-Mounted Solar Energy Systems in all Districts:

- a. Roof Mounted Solar Energy System where pitch is greater than or equal to a fifteen (15) degree angle- Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.
- b. Roof Mounted Solar Energy System where pitch is less than or a fifteen (15) degree angle- Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.

- c. Other Building-mounted Solar Energy System (e.g., awnings)- No greater than the highest point of the roof.

4. Height for Ground-Mounted Solar Energy Systems:

- a. Small-Scale Ground-mounted Solar Energy System in all Districts - Twelve (12) vertical feet from grade.
- b. Medium-Scale Ground-mounted Solar Energy System in all Districts - Twelve (12) vertical feet from grade.
- c. Solar Parking Canopy in Residential Districts - The maximum height allowed on the lot or the height of the principal structure, whatever is less.
- d. Solar Parking Canopy in Non-Residential Districts – Subject to Site Plan Review by Special Permit Granting Authority.

5. Setbacks

- a. Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment's reach at all angles falls within the setback requirements.
- b. Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- c. Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees should be met elsewhere on the lot.
- d. All other Ground-mounted Solar Energy Systems shall meet requirements for District-level setbacks as defined in the Needham Zoning By-Laws.
- e. Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

6. Supplemental Regulations

- a. BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b. The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham's Stormwater By-Law, Article 7 of the General By-Laws.

7. Section 7.4 Site Plan Review

- a. Site Plan Review is required for all Medium-scale Ground-mounted Solar Energy Systems in all districts and Solar Parking Canopies in non-residential districts. The Planning Board would serve as the Special Permit Granting Authority for these systems.
- b. In addition to the site plan review submittal requirements of Section 7.4 of the Needham Zoning By-law the following additional information is required:
 - 1) Name, address, and contact information for proposed system installer.
 - 2) Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - 3) The name, contact information and signature of any agents representing the project proponent.
 - 4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - 5) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
 - 6) Documentation of the major system components to be used, including the panels, mounting system, and inverter.
 - 7) Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
 - 8) Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
 - 9) Locations of local or National Historic Districts in relation to the site.
- c. In addition to the site plan review criteria and standards of Section 7.4 of the Needham Zoning By-law the following additional criteria is to be considered:
 - 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - 2) Utility Connections: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
 - 4) Height and Layout: The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.

- 5) Visual Impact: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
- 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
- 7) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

Solar Energy Zoning Approach

Key Policy Decision Points Highlighted

1. Add the following definition to Section 1.3 Definitions of the Zoning By-law.

Solar Energy System - a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating. Solar Energy Systems include the following system types:

1. A Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:
 - a) Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
 - b) Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
 - c) Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
 - d) Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,500 square feet of surface area or less.
 - e) Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,500 square feet, but less than 40,000 square feet of surface area.
 - f) Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
 - g) Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.
 - h) Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.
2. Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

2. Add the following to Section 6, Special Regulations, of the Zoning By-law.

6.2 Accessory Uses – Solar Energy System

6.2.1 Basic Requirements

- a) **Roof-mounted Solar Energy Systems shall be permitted in all use districts.** The installation of Roof-mounted Solar Energy Systems that:
 - 1) comply with the regulations provided in this section; and
 - 2) are located on properties with nonconforming uses or structures; and
 - 3) do not increase the nonconformity of such nonconforming uses or structures except with respect to the dimensions of the Roof-mounted Solar Energy System in question shall not be considered a change, extension or alteration that requires a finding by the Zoning Board of Appeals per M.G.L. c.40A s.6.
- b) **In residential districts: Small-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies shall be permitted in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems shall be permitted subject to site plan review by the Special Permit Granting Authority.**
- c) **In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies are permitted subject to site plan review by the Special Permit Granting Authority. The same regulations shall apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.**
- d) Where Solar Energy Systems would be installed in a Historic District, the system shall require approval by the Historic District Commission.

6.2.2 Dimensional Requirement

a) **Maximum Percentage (%) Lot Coverage**

- 1) Active Solar Energy Systems are not buildings as defined in the Needham Zoning By-Law and should not be treated as such. However, for the purpose of regulating lot coverage, **the area of Active Solar Energy Systems shall count toward the Maximum Percentage (%) Lot Coverage as defined in the Intensity Regulations provided in the Needham Zoning By-Laws.**
- 2) An Active Solar Energy System's contribution toward Maximum Percentage (%) Lot Coverage shall be calculated as the total area of the system's panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system's contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.

- 3) Such part of a Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed shall count toward Maximum Percentage (%) Lot Coverage.
- 4) For Ground-mounted Solar Energy Systems, the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Building Coverage.
- 5) To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface shall not be included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building's footprint - that is already counted).

b) Height

1) Building-mounted Solar Energy Systems:

System Type	Roof Pitch	Siting	Maximum Height
Roof mounted Solar Energy System	Pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.
Roof-mounted Solar Energy System	Pitch is less than 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.

Other Building-mounted Solar Energy System (e.g., awnings)	Not Applicable	All districts	No greater than the highest point of the roof.
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2) Ground-mounted Solar Energy Systems:

System Type	Siting	Maximum Height
Small-Scale Ground-mounted Solar Energy System	All districts	Twelve (12) vertical feet from grade.
Medium-Scale Ground-mounted Solar Energy System	All districts	Twelve (12) vertical feet from grade.
Solar Parking Canopy	Residential	The maximum height allowed on the lot or the height of the principal structure, whatever is less.
Solar Parking Canopy	Non-residential	Subject to site plan review by Special Permit Granting Authority.

c) **Setbacks**

- 1) Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment's reach at all angles falls within the setback requirements.
- 2) Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- 3) Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees should be met elsewhere on the lot.
- 4) All other Ground-mounted Solar Energy Systems shall meet requirements for District-level setbacks as defined in the Needham Zoning By-Laws.
- 5) Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

6.2.3 **Supplemental Regulations**

- a) BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b) The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham's Stormwater By-Law, Article 7 of the General By-Laws.

6.2.4 **Site Plan Review**

- a) **Site Plan Review: Medium-scale Ground-mounted Solar Energy Systems in all districts and Solar Parking Canopies in non-residential districts are subject to site plan review by the Special Permit Granting Authority prior to construction, installation or modification as provided in this section and in accordance with Section 7.4 Site Plan Review. The Planning Board will serve as the Special Permit Granting Authority for these systems.**
 - 1) **Site Plan Document Requirements:** The project proponent shall provide a Final Site Plan to the Special Permit Granting Authority in compliance with Section 7.4 Site Plan Review, Subsection 7.4.4.Procedure. In addition, applicants should submit the following:
 - i. Name, address, and contact information for proposed system installer.
 - ii. Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - iii. The name, contact information and signature of any agents representing the project proponent.
 - iv. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - v. Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
 - vi. Documentation of the major system components to be used, including the panels, mounting system, and inverter.
 - vii. Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.

- viii. Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
 - ix. Locations of local or National Historic Districts in relation to the site.
- b) Site Plan Review Design Standards: The Special Permit Granting Authority shall consider the following criteria and standards, in addition to those listed in Section 7.4.6, Review Criteria for Site Plan Review when reviewing site plan submittals made under this section:
 - 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - 2) Utility Connections: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
 - 4) Height and Layout: The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
 - 5) Visual Impact: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
 - 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
 - 7) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System

shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

From: [Michael Greis](#)
To: adam.block@compass.com; [N. Espada](#); [Artie Crocker](#); [Paul Alpert](#); [Jeanne McKnight](#)
Cc: [Lee Newman](#); [Alexandra Clee](#); sfrail2001@yahoo.com; [Nick Hill](#)
Subject: Fwd: Solar canopies over rooftop designs
Date: Tuesday, September 19, 2023 10:54:44 AM
Attachments: [Solar above the roof.pdf](#)

Adam, Natasha, Artie, Jeanne & Paul,

I have talked with several of you over the last couple of years about zoning changes to encourage, promote & facilitate solar PV on commercial and municipal buildings. As you are all well aware, solar PV is an essential element of the net-zero energy transition and the response to climate change.

Two years ago, we brought forward a solar parking canopy proposal for Newman and other school parking lots that is languishing at the Town. While workload has likely been part of the issue,, the larger concern is the absence of as-of-right zoning. Developers are much more likely to compete aggressively with suitable zoning in place.

I'm pleased that the CAPC has prioritized zoning for solar in its early work. Stephen and I talked about and worked on this earlier this year.

An important element of solar-friendly zoning that is not receiving enough focus is allowing the installation of solar PV on a roof-mounted scaffolding, possibly with some cantilevering. This essentially eliminates the problems associated with fitting solar onto rooftops already crowded with HVAC equipment. The scaffolding and solar PV also provide shading and protection for the roof and roof-mounted equipment. Such structures can effectively allow solar PV on the entire roof area (or more, with cantilevering).

Permitting this use should be part of the solar zoning you are considering now. Commercial developers need to have this in place during the design and engineering process for new construction.

Below you will find information on several projects incorporating these facilities, here in Massachusetts and elsewhere. I previously provided this information to Adam last December. The team at Solar Design Associates has done a lot of this work, and I could certainly ask them to meet with you formally or informally to provide additional information and answer questions.

Thanks!

Michael

----- Forwarded Message -----

Subject: Solar canopies over rooftop designs

Date: Thu, 5 May 2022 19:55:20 +0000

From: Haskell Werlin <hwerlin@solar design.com>

To: Michael Greis <mjg@riverbendadvisors.com>

Hi Michael,

It was great to see you today at the Statehouse News' Net Zero forum.

I am attaching three projects Solar Design Associates (SDA) designed and engineered where the solar array covers the entire roof area, above the rooftop equipment. This achieves several goals, including maximizing the power density of the array, as well as protecting the rooftop equipment and extending the useful life the roof itself from the elements. We are currently working on a fourth rooftop "solar lid" system at the new Chelsea Soldiers Home.

Let me know if SDA could be of assistance on the Bullfinch project at the Muzi Ford site.

In solardarity,

Haskell

Haskell Werlin

Director of Business Development
solar design associates inc.
280 Ayer Road
Harvard, Massachusetts 01451

617.519.1024 mobile
978.456.6855 x 22

hwerlin@solar design.com
www.solar design.com

First Energy-Positive Multi-story Office Building

When Bullitt Foundation President and CEO Denis Hayes was ready to build his organization's new headquarters, he set some very challenging goals. The six-story facility was to achieve Energy Positive and also meet all the requirements of the **Living Building Challenge** – a holistic set of restorative design criteria developed by the International Living Futures Institute that's far more demanding than **LEED Platinum**.

To qualify, a building must produce all of its own energy, harvest all of its own water, discharge nothing off-site, meet strict materials specifications along with requirements on Health, Equity and Beauty – see:

<http://plone.ilbi.org/lbc> The Foundation retained SDA to help them achieve these goals.



SDA collaborated with Seattle architects Miller | Hull and their consulting engineers to define the energy requirements and the solar harvest potential. Since the facility is located in photon-deprived Seattle, available sunlight was the major design driver.



After working with the design team to balance the energy equation - reducing loads to the lowest level possible – an EUI of 16, SDA concluded additional roof area beyond the building's footprint was essential to deliver sufficient annual solar harvest to achieve **energy positive** and proposed the solar array be cantilevered out over the public space on three sides surrounding the facility.

SDA provided full solar design and engineering, complete construction documents, procurement assistance, liaison with code and utility officials, construction oversight and full system commissioning. The Center received a **Top Ten Environmental Design Award** from the American Institute of Architects and the *New York Times* and *World Architecture* both declared the Bullitt Center to be **"The greenest and most efficient office building in the world"**. Take a video tour narrated by the client: <https://vimeo.com/57077446>

Solar for the University of California Medical Center

When Planners wanted to field solar electricity to power their University of California Medical Center in San Francisco, they retained SDA to help them accomplish their goal. The project presented many challenges: Roof real estate was already fully subscribed with mechanical systems essential to hospital operations, potential glare issues impacting the roof-top Medevac heliport and, the campus sits atop an active seismic zone.

The only option to field any significant amount of solar capacity was to install it on an elevated structure that clear-spans all roof-top equipment. SDA retained noted regional structural engineering firm Rutherford and Chekene to assist with seismic design and help develop a 'hardened' version of SDA's proprietary high-density, array mounting system together with the necessary supporting structure. Both had to meet the 2.5 X safety factors required by all hospitals in California.



The resulting array provides maximum solar potential from the space available while also maintaining sufficient slope for rainfall to keep the modules clean.

SDA served as Engineer-of-Record providing initial schematic system design, complete construction documents, procurement assistance, review of installation contractor's proposals, construction period support and comprehensive system commission. When completed, the system was the largest in the city.

Near-Net-Zero-Energy Academic Center

Clark University wanted their newest addition to campus to be as energy self-reliant as possible. They retained Architerra, a Boston area architectural firm well known for sustainable design and Architerra retained SDA known for innovative solar power solutions.

This being the first solar-powered building on campus, the University wanted to emphasize its energy credentials. The architects proposed to float the solar array on a trellis 10' above the roof and cantilever it out beyond the building. This provided the desired results, maximizing solar harvest while accommodating all rooftop equipment with easy access and full air circulation.

SDA collaborated closely with the design architects and developed a unique, integrated, solar array mounting system that maximizes solar harvest along with the structural interface to satisfy wind loading on the unique structure.

SDA served as Engineer-of-Record for the solar system providing full design and engineering, complete signed-and-sealed construction documents, procurement and permitting assistance, liaison with utility and code officials, construction oversight and full system commissioning. The project's General Contractor became concerned the custom solar system was beyond the capabilities of typical solar contractors after receiving only unresponsive proposals. SDA was engaged to construct the system and completed the project on a turn-key **design / build** basis.



First Net-Zero-Energy College Academic Laboratory

The new 60,000 ft² Allied Health Sciences Laboratory for the University of Massachusetts system was selected by Governor Patrick to be the first Net-Zero-Energy building constructed by the Commonwealth.

Solar Design Associates was retained to collaborate with design architects DiMella Shaffer Associates on what was their first **Net-Zero-Energy** commission.

SDA worked with the architects and their consulting engineers to help balance the energy equation to achieve Net-Zero for the facility and define the design requirements needed to achieve this goal.



SDA then designed the solar electric roof and companion solar walkway canopies to deliver the energy required to power the facility. Since the facility was already under construction, SDA designed a long-span truss system to clear span the roof and all roof-top equipment as it was not designed to accept the additional loading from the solar system. This approach also expanded the available roof area to accommodate the amount of solar required to achieve Net-Zero.

SDA provided full design and engineering and complete construction documents for the solar systems, assisted with procurement of key components, provided construction oversight, liaison with utility and code officials and commissioned the systems upon completion. When completed, the facility was one of the largest commercial / institutional buildings and one of the first laboratory facilities in the US to achieve Net-Zero-Energy status.

NEEDHAM PLANNING BOARD MINUTES

May 12, 2023

The Needham Planning Board meeting, held virtually using Zoom, was called to order by Adam Block, Chairman, on Friday, May 12, 2023, at 9:00 a.m. with Messrs. Crocker and Alpert and Mmes. McKnight and Espada and Assistant Planner, Ms. Clee.

Mr. Block took a roll call attendance of the Board members and staff. He noted this is an open meeting that is being held remotely per state guidelines. He reviewed the rules of conduct for all meetings. This meeting does not include any public hearings and is being held to discuss the Stantec parking study. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Presentation by Stantec, reviewing their findings from a parking study focused on Needham Center and Needham Heights.

Amy Haelsen, Economic Development Director, gave the background. She noted Town Meeting approved funding for a parking study, [5/22/23??], for Needham Center and Needham Heights. ~~The A RFP process was undertaken has been started.~~ The Town contracted with Stantec and they began the work analyzing parking in both areas.

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Liza Cohen, of Stantec, gave an overview and noted Stantec was hired to do a parking assessment. She worked with the Town to establish goals which included: documenting existing supply, improving ~~the~~ parking management system, user friendliness, recommending parking efficiencies and opportunities, better aligning policies with long term goals of the areas, supporting the economy and having informed decision making for future street improvement projects.

Ms. Cohen noted the first step was to see what public and private parking is available for Needham Center and Needham Heights. Needham Center has a total of 1,771 parking spaces with the majority being off street or restricted parking. She then counted all the cars in the spaces in November, 2022. She showed occupancy by facility. The occupied spaces averaged 63% with 659 spaces still available at the peak time. Ms. McKnight noted the boundaries go a little beyond the commercial area. Ms. Cohen stated they were looking at ~~spill-over~~ ~~spillover~~. Mr. Alpert ~~sought clarification as to whether~~ this is parking overall, including private parking, and was informed that was correct. Ms. Cohen stated at 6:00 p.m. the area is pretty full, but areas around loosen up. Public parking never exceeds 74% in the Center or 51% in the Heights after 6:00 p.m.

Mr. Crocker asked if the parking at the MBTA station in the Heights was being counted. Ms. Cohen stated it was counted and is considered public parking. She stated there was the same breakdown ~~for~~ ~~for~~ restricted parking. The Center at 6:00 p.m. had almost 900 spaces available in restricted spaces. Restricted spaces are taking up a lot of space in the dense, walkable downtown areas. There were 561 spaces available in the Heights. A public survey was done with over 1,000 responses. In the Center, 91% of people spent less than 2 hours ~~per visit~~ and one half parked within one or 2 blocks of their destination. She noted 15% of employees park on the street. An open house was held and over 50 people were there. They held a couple of round-tables with local merchants and she showed the key findings. There is available parking even at peak ~~times~~ ~~times~~, but it is hard to find. There are not a lot of options until 2:00 p.m. with permit parking.

Jason Schrieber, Senior Principal at Stantec, noted they have identified a crosswalk to go in by Learning Express ~~on Chestnut Street~~ and noted there used to be one there. Ms. Cohen noted there is a zoning component. Stantec did a review of the ~~code~~ ~~code~~ zoning by-law and the top finding is that requirements are relatively high. Waiver requests are frequent but there are limited options for developers to have reductions as of right and flexibility is limited. Mr. Alpert commented he would not say waiver requests are "frequent." The frequency for waiver requests in the Center ~~are~~ ~~are~~ is 100%. There is very little room as the ~~parking in the~~ ~~parking in the~~ Center is mainly ~~on~~ ~~on~~ public property. Ms. McKnight noted the report refers to waivers granted by the Zoning Board of Appeals (ZBA) but ~~actually most~~ ~~most~~ are ~~actually~~ ~~actually~~ done by the Planning Board. The report could be simplified to say Planning Board or ZBA.

Ms. Cohen noted she used Institute of Transportation Engineers (ITE) data, which is what Engineers use to calculate parking demand. The zoning requirements are relatively high. Needham requirements are higher than suburban standards. [She noted the residential development in the Heights averages one space per unit and the Center averages 1.3 spaces per unit not clear if this is supply or demand]. [Ms. McKnight clarified Rosemary Ridge has 105 units. She had stated there were 108 and she wanted to clarify the misinformation.delete?] Mr. Block stated it is striking for him that the demand is less than one car per unit. Ms. McKnight stated it ~~would be~~ helpful to have the particular developments broken out. She would like to see this table in the report. Mr. Alpert noted visitor parking is being taken into account. He asked if the counts were taken at a time when there could have been a lot of visitor parking like morning versus evening. Ms. Cohen noted the counts were taken later in the evening to capture peak residential parking. Parking trails off during the day and increases at night.

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Ms. Cohen stated they always need to be aware of the count in the evening as there is no overnight parking where residents can get a permit. Mr. Crocker asked what time of year this was taken. How many units were actually occupied at Rosemary Ridge Condominium, or had unit residents gone to Florida? Ms. McKnight noted, if going to Florida, the people may leave their cars in the lot for months. November would be a good month to get the counts. No one is on the Cape or in Florida yet. She noted there is 100% unit occupancy at Rosemary Ridge. Ms. Espada stated Rosemary Ridge and 275 2nd Avenue are not in the Mixed-Use areas. She feels those areas have less demand. Hamilton Highlands and 50 Dedham Avenue have higher demand. She asked if that was because they had restaurants there. Mr. Schrieber stated the real influence of this has to do with the type of residents and the buildings themselves. He noted 50 Dedham Avenue is high end so people may have more than one car. It is not necessarily the location. It has more to do with the market for that type of product. Ms. Espada commented it seems to be one extreme or another with nothing in between. Mr. Schrieber noted it is also the size of the building.

Ms. McKnight noted the report mentions, with regard to 275 2nd Avenue, a percentage of affordable units. Some affordable-unit occupants may not own a vehicle. Ms. Espada noted that could be looked at for the MBTA Communities law compliance effort. They are trying to create more affordable housing in the areas with public transportation available. Mr. Schrieber noted the key is if you suddenly model everything off the worst-case scenario you would have excess supply. Mr. Crocker was curious to see what the parking demand at Charles River Landing is. Mr. Alpert noted the major point is 1.5 cars per unit is an excessive requirement. The number may not be 1.0one, but 1.5 is excessive. [Ms. Cohen did the calculations to see how much should be built in the Center. It would be something like 3,500 but the existing is 1,800. Unclear] The actual counts across the time of day vary. [Mr. Schrieber stated the Board asked for 3 times the available number. Unclear] Mr. Crocker commented he never thinks of the Dedham Avenue lot as a parking resource. He feels it should be advertised.

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Mr. Block noted the final report has been submitted to the Select Board. There were 13 findings for parking condition improvements. One recommendation is for zoning reform. Others related to improving awareness of parking supply and access to supply and optimizing it. He feels, if part of the solution is zoning, the Planning Board should work on it. Ms. Cohen discussed waivers requested and granted. She reviewed where the zoning code offers flexibility, where flexibility is offered via overlays and what overlays allow by right and by special permit. The overall recommendations are to reduce or eliminate parking minimums, consider parking maximums, reducing parking requirements for Mixed-Use developments, expand off-site parking opportunities, (removing the land-ownership requirement), and expanding Transportation Demand Management by increasing and enhancing TDM requirements. The in-lieu fee program should be formalized and utilized. She noted the Town can use funds to make more coordinated improvements and should revise regulations to match across the study areas.

Mr. Alpert thanked the Stantec Team for the good presentation. Including bicycle rack requirements are supposed to encourage other modes of transportation but they are finding "if you build it they would come" does not work. He does not feel bike spaces are utilized. People are not using public transportation. Mr. Schrieber noted there is a need for more bike lanes. Mr. Alpert added that people need to adhere to bike lanes. He stated it would make sense to have a joint Planning Board/Select Board meeting where the public is invited, and which is well advertised, to discuss. Ms. McKnight noted people can bicycle on the sidewalks in Town, except in Needham Center, and such sidewalk-biking-That is safer for kids. She likes the idea of a joint meeting but feels the ZBA should be included and the Council of Economic Advisors (CEA). Mr. Block noted the CEA met yesterday and have has named a number of priority recommendations to the Select Board but left the planning to the Planning Board.

Ms. McKnight stated, that the report suggests, if a developer wants to build parking spaces at a rate more than needed, the developer could be made to share parking or pay a per space fee to help with initiatives. She does not see the rationale for a fee. It says the Town can serve as a mediator. If a special permit is involved [for off-site parking??], she would like to see the lease. Mr. Schrieber noted the Town would want to have shared parking agreements on file. The Town can become the agent for shared parking arrangements and educate and protect the Town's interests. Ms. McKnight stated they use special permits a lot in the Town. She asked if the shared parking agreement was because a waiver was sought. Mr. Schrieber stated that is correct. He feels it should be said up front that the town requires applicants to say how many spaces they are using each year. That is better than a lease. Above a certain increment could be made sharable or there could be a payment in lieu. Ms. Espada asked if he had any examples of suburbs that have adopted this TDM. Mr. Schrieber stated Waltham, Salem, maybe Framingham, and Cambridge is at the beginning of it.

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Mr. Alpert noted, if Mixed-Use shares parking, the Board needs to look at the nature of the uses. He agrees the Board should look at that with the parking requirements. He noted that was done at Temple Beth Shalom. There is a child center in the morning, religious school in the afternoon and the sanctuary at night. Each is at different times. He likes the idea of formalizing the analysis. Mr. Schrieber stated people should be educated about sharing and about liability. Ms. Espada left the meeting at 10:15 a.m.

Mr. Block stated there needs to be zoning reform for the parking By-Law to maybe begin in October or May. He would like to understand removing the minimum and moving toward the maximum only. Mr. Schrieber stated Stantec is at the end of their scope and their fee. He noted they will provide insight review and feedback. Mr. Block thought he heard Stantec would be part of the public meetings. Mr. Alpert noted that would be up to the Select Board, if the contract expires at the end of May and the scope of the work is complete, if they want to come up with more money. Ms. McKnight noted she had wanted a baseline parking study for downtown, since, ~~the~~ Board frequently asks special permit applicants to hire someone to do a study. She asked if this study could be used, and the Board might not require applicants to do studies. Mr. Block is not sure if this could be used in lieu of site-specific parking studies.

Correspondence

Mr. Block stated he and Ms. McKnight met with Alex Clee, Needham Housing Authority Chair Reg Foster, Karen Sunnarborg and a consultant from the Cambridge Housing Authority. Mr. Foster came to the Planning Board in February to say the Housing Authority would pursue a friendly 40B with the ZBA. The purpose of this Chair/Vice-Chair meeting was to inform the Board that the Housing Authority may instead go to the October Town Meeting for a zoning by-law change. They are looking for financing and would need approval from the Department of Housing and Community Development (DHCD) by October to get funding for that year. ~~They~~ The Housing Authority sent a letter to the Planning Board, noting they would like to come before the Board in June. Mr. Alpert spoke with Mr. Foster, who, ~~He~~ told him DHCD would not talk to the Housing Authority ~~them~~ until the zoning is in place.

Ms. McKnight noted, if Town Meeting has adopted the zoning to be sought by the Housing Authority, DHCD will process the application even though the Attorney General has not approved it yet. Currently there are 18 units per acre at Linden/Chambers. ~~They~~ The Housing Authority wants 30 units per acre. Mr. Foster said at the meeting they would be focusing on Maple Street and on Linden Street. Mr. Block noted, on page 30 in the Planning Board meeting packet, there is a road map for the October 2023 Special Town Meeting. October 23 is a week before the end of October, by which, ~~they~~ would need some sort of zoning by-law amendment approval. He is not sure the timing works. He would want a couple of Planning Board hearings on this and the language of the zoning would need to be finalized in the middle of the summer when everyone is away. Mr. Crocker noted that is a valid concern. He feels the Board could make it work if it was publicized in a lot of different places.

Mr. Block noted this is also going up to 4 stories. Ms. McKnight clarified there is one building at the rear of the property where the property changes-lowers in elevation. She stated there was no support for 4-story zoning for that at the nearby Hartney Greymont site. She noted that Robert Smart suggested an overlay district, but, ~~She~~ does not see the need when the only underlying uses are on-those allowed in single residence and general residences districts. None of the existing apartment zones fit the need. They will have to wait and see what is proposed. The Board may need to write up new apartment zones. They currently have Apartment 3 zoning and no land is zoned for it. She feels the Board could use that and create the dimensions needed. Mr. Block noted there would need to be a map change also.

Upon a motion made by Mr. Crocker, and seconded by Mr. Alpert, it was by a vote of the four members present unanimously:

VOTED: to adjourn the meeting at 10:38 a.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk

DRAFT

NEEDHAM PLANNING BOARD MINUTES

June 6, 2023

The Needham Planning Board meeting, held in person at the Charles River Room of the Public Services Administration Building and virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, June 6, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert and Ms. McKnight and Assistant Planner, Ms. Clee.

Mr. Block took a roll call attendance of the Board members and staff. He noted this is an open meeting that is being held in a hybrid manner per state guidelines. He reviewed the rules of conduct for all meetings. This meeting does not include any public hearings and public comment will not be allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Decision: Special Permit Amendment No. 2017-01: Sira Naturals, Inc., d/b/a Avr, of 300 Trade Center, Suite 7750, Woburn, MA 01801, Petitioner (Property located at 29-37 Franklin Street, Needham, MA). Regarding proposal to eliminate the "appointment-only" operational requirement for the facility.

Mr. Block stated, in section 3.4, he would like to have a name and phone number posted on a sign outside the building. The purpose is to be able to reach the person-in-charge if any issues arise. ~~Mr. Robert Smart, the applicant's attorney,~~ stated signage inside only should be fine. Mr. Alpert suggested the sign be posted right inside when people walk in. Ms. McKnight noted pages 2 and 3, Section 1.3 refers to "By amendment decision.." She thinks it should be "amendment to decision." Also, the same change should be made in Section 3.1. She clarified that in Section 3.4 the only change would be to insert "and phone number." Mr. Block noted Section 4.1 and asked if it should be eliminated. Ms. Newman stated it is a standard condition, but not applicable here, and thus could be eliminated.

Mr. Alpert noted Section 3.3. The Board got comments from neighbors about people still smoking outside the facility. He suggested taking out "on site" after "trash" and add "and on the sidewalk and street parking spaces adjacent to the site." Mr. Block stated the question is does the boundary of the property include the on-site spaces. ~~Mr. Robert Smart, attorney for the applicant,~~ stated there are a number of on-site spaces. No more than half the spaces on site are used. It is burdensome for his client to monitor spaces on the street. Mr. Crocker stated there is a problem having the applicant police the public roadway. Mr. Alpert noted the spaces assigned are adjacent to the applicant's property. Mr. Smart does not think there are any on-street spaces adjacent to the property.

Ms. McKnight stated Section 1.1 describes "subject property" and includes a parking easement at 55 Franklin Street. She feels "subject property" should be used rather than "site" so it says "will include all spaces on site and on easement..." This was agreed. In Section 3.3, it should say "The Petitioner will continue to walk the entire subject property daily to ensure that there is no trash or smoking on the subject property and on the sidewalk and parking spaces adjacent to the subject property." All agreed. Mr. Block noted Section 3.3 was there twice.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the four members present unanimously:

VOTED: to GRANT the following requested amendment to Special Permit No. 2017-01, dated June 13, 2017, amended October 18, 2022; permission to eliminate the "appointment-only" operational requirement for the facility permanently; subject to and with the benefit of the following Plan modifications, conditions and limitations.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the four members present unanimously:

VOTED: to approve the decision as modified by the discussion tonight.

Discussion of Planning Board Goals & Priorities, Planning for October Special Town Meeting.

Mr. Block feels this discussion should be suspended until Ms. Espada is able to participate. It will be rescheduled for the next meeting.

Sign Agreement: Belle Lane Definitive Subdivision: Annemarie von de Goltz, Trustee, 634 Charles River Street Realty Trust, 420 Lakeside Ave., Marlborough, MA, Petitioner (Property located at Map 305, Lot 23, off of Charles River Street, Needham, MA).

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by a vote of the four members present unanimously:

VOTED: to agree to, and sign, the Belle Lane Agreement Amendment as presented in the packet this evening.

Board of Appeals – June 15, 2023

72 School Street – 72 School Street, LLC, applicant

Mr. Block noted the applicant is adding a second floor over a day care center. Mr. Alpert stated that is as of right due to the Dover Amendment. The Board of Appeal application is only for parking.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the four members present unanimously:

VOTED: “No comment.”

Minutes

Upon a motion made by Mr. Crocker, and seconded by Mr. Alpert, it was by a vote of the four members present unanimously:

VOTED: to approve the minutes of 3/37/23 as in the packet.

Ms. McKnight noted on the minutes of 3/7/23, on page 1, the word “demonstration” is in front of “pub”. Mr. Alpert suggested looking at the plans and see if there is another word there. Ms. McKnight noted if no other word is there it should just say “pub.” On page 6, in the discussion regarding ADUs, Heidi Frail said “she is against what they originally want to do.” She does not know what this means and proposes deleting the sentence. Mr. Block thinks she was referring to the higher number of homes with smaller ~~lots~~lots, but it can be removed. Ms. Clee noted the plans calls it a pub. The word “demonstration” will be removed. Ms. McKnight noted on page 7, after the close of the hearing, at the end she did a lot of editing. The members reviewed the edits.

Mr. Alpert noted typos with the red lining. He added with the sentence for FAR and lot coverage “He realized that...” should be added. Mr. Block stated the next paragraph should be modified. The building code cannot be changed but the By-Law can be changed in October. After “He would be ok with a detached ADU not compliant with setbacks” he suggested adding “for primary dwellings.”

Upon a motion made by Mr. Alpert, and seconded by Ms. McKnight, it was by a vote of the four members present unanimously:

VOTED: to accept the minutes of 3/7/23 with red line changes previously submitted and further changes as discussed this evening.

Report from Planning Director and Board members.

Ms. Newman stated she is working with Katie King to get an application into the state for funding for a consultant for the MBTA Communities law compliance effort. The request is for \$100,000. If their request is approved, only \$15,000 of the \$50,000 planning [department??] money would need to be used. Ms. Clee stated they should know in the next 30 days. Ms. Newman noted they have applied for this to cover consultant costs.

Correspondence

Planning Board Minutes June 6, 2023

Mr. Block noted the following correspondence for the record: a letter, dated 5/26/23, from Climate Action Planning Committee Chair and Vice-Chair Stephen Frail and Nicholas Hill; and a series of correspondence regarding 888 Great Plain Avenue including an email, dated 6/1/23, from Jeremy Dies; an email, dated 6/1/23, from Kimberly McCollum; an email, dated 6/1/23, from Glenn Mulno and an email, dated 6/1/23, from Rebecca Keller Scholl.

Vote to adopt the charge and the composition of the Housing Needham (HONE) Advisory Group.

Mr. Block noted there will be an ad hoc committee established to achieve ~~the~~ Town compliance with MGL Chapter 40A, Section 3A (the MBTA Communities law). There will be 9 voting members for a 2023-2024 term with the expectation to send articles to Town Meeting to ~~change these goals for~~ the October 2024 Special Town Meeting, rather than the May 2024 Annual Town Meeting as previously discussed. The members of the committee will be regarded as special municipal employees and will be dealing with school, public works, public safety and other town departments. There will be a member of the Select Board and of the the Planning Board who will be co-chairs; and additional members who will be a second Select Board member and a second Planning Board member, a member of the Finance Committee, and a tenant and a committee member at large to be appointed by the Select Board, ~~will appoint a tenant and a committee member at large and~~ ~~the~~ Planning Board will appoint 2 additional residents as members, ~~and~~ ~~He~~ would modify it to say “an architect, land use planner, land use attorney or Real Estate developer” and have any two of those. Mr. Alpert assumes the appointees must be residents. Ms. Newman stated that is correct. Mr. Alpert feels there may be a problem finding a land use planner or land use attorney. An attorney would not be able to represent in front of the ZBA as a special appointee. Mr. Block stated he wrote the composition of the change, and the Select Board will do the same. At the next meeting the designees will be voted. Ms. Newman stated people will apply and the Planning Board will vote once that is done. Mr. Alpert feels this will probably not be ready to vote on appointments until the July meeting. He would like to see 2 separate ~~occupation~~ occupations rather than, for example, 2 architects or 2 land use planners. All agreed but would need to see who applies.

Ms. McKnight’s preference would be to keep separate bullet points and add one real estate developer or one real estate attorney to be appointed by the Planning Board. Mr. Alpert suggested just saying 2 out of the 4 and see who applies.

~~He~~ Mr. Alpert asked where, in the committee charge, “including but not limited to inclusionary zoning (affordable housing requirements) and parking requirements” came from. Mr. Block noted the language came from Assistant Town Manager Katie King. Mr. Alpert stated that the MBTA Communities law requires multi-family housing it would be a use as of right. He is not sure the parking minimums could be limited. Mr. Block noted it was a valid question. As part of the public policy, it will bear out what would be allowed by right and what would be by special permit above that. Mr. Alpert stated the use would be as of right but it would have site plan review.

Mr. Block stated the committee will update the Finance Committee, the Planning Board and the Select Board throughout the process with deliberations and community feedback. With the Housing Plan Working Group, feedback was not given to Working Group members Ms. Espada or Ms. McKnight to take back to the Group. The Committee will recommend draft zoning to the Select Board and Planning Board to submit to Town Meeting and DHCD. Mr. Crocker stated it is perfectly reasonable to have the MA Department of Housing and Community Development (DHCD) involved in the process as proposed. Ms. McKnight noted September to March would be community engagement, then the rezoning budget-proposal would be submitted to DHCD for review. It does not require DHCD advice prior to Town Meeting action, but it seems to be good to take advantage of it during the process rather than waiting until the end of 2024 when the final rezoning must be submitted to DHCD for approval. Mr. Alpert noted the timeline is very tight. DHCD requires 90 days for review. He does not want to give the community the impression the Planning Board has already made a decision. He feels it may give that impression with this timeline.

Mr. Crocker suggested starting in September with public meetings. He does not see how that would be perceived as premature decision-making ~~the perception~~. Mr. Block stated this timeline is a draft and any suggestions should be sent along. Ms. McKnight stated she would like to serve on this committee. She spent 450 hours on the Housing Working Group from October 2021 through the end of 2022. She is willing to put that kind of effort on this. She stated she will not be running again in April 2023 for the Planning Board. She could say most of the work would be done by the end of March or she could be named as an off-board ~~the~~ Planning Board designee if she is already off the Board before the committee

~~work is done.~~ She feels they could say “Planning Board member or designee.” Mr. Alpert stated something needs to get out for people to submit applications for this committee. Ms. McKnight noted the Planning Board member who is appointed co-chair should be a member. Where it says Planning Board member she feels “or designee” could be added.

Mr. Alpert noted there will be substantial work to be done after the 2024 Town election and the zoning language will probably not be done by then. He is questioning the feasibility of Ms. McKnight serving due to the timing. Ms. McKnight commented if it says “designee” she could continue. Mr. Alpert stated that language could be added at a later time, but a vote should be taken tonight and ~~then~~ presented it to the Select Board ~~but~~ and he feels that is a substantial change that has not been discussed with Assistant Town Manager Katie King or the Select Board. If this were coming from the Select Board to them with this substantial change the Planning Board members would be upset.~~delete??~~ Mr. Crocker sees no issue with Ms. McKnight continuing after the election serving in an advisory manner after she is off the Board. Ms. McKnight stated they could make any necessary changes in April when the time comes.

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Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the four members present unanimously:

VOTED: to approve the composition and charge of the ~~HONEome C~~committee with the one change made of combining and adding the Real Estate [(land use attorney or developer) add parenthetical explanation?] alternative.

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Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the four members present unanimously:

VOTED: to adjourn the meeting at 8:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

June 20, 2023

The Needham Planning Board meeting, held in the Charles River Room of the Public Services Administration Building and virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, June 20, 2023, at 7:00 p. m. with Messrs. Crocker and Alpert and Mmes. McKnight and Espada, Planner, Ms. Newman and Assistant Planner, Ms. Clee.

Appointments:

7:00 p.m. – Needham Housing Authority Linden/Chambers Redevelopment Project Update.

Mr. Block noted the applicants came before the Board at the 2/28/23 meeting and different options were looked at. The applicant was considering a “friendly” 40B but is now looking at a By-Law change to be led by the Planning Board. Reginald Foster, of the Needham Housing Authority, stated a friendly 40B was the best route but the Planning Board felt ~~they~~ the NHA should engage Counsel. Attorney Robert Smart did a deep dive to see how the housing originally came about. It is highly advisable to go the Town Meeting route rather than the 40B route. There are notes from Mr. Smart in the packet. They are in the conceptual design process. After considering multiple options for the site, he feels they have agreed on how to go forward. He thinks they have a good approach right now.

Attorney Smart noted in his 6/15/23 letter, there are 3 Zoning Articles – 1) to establish a zoning district for Linden/Chambers which is just over 11 acres; 2) the Zoning Map Article and 3) non-zoning authority for the Select Board to correct deeds or issues to clear titles. He noted it was done that way back in the 1960s. He has not spoken with the Select Board or Town Counsel to see how they want to do it. ~~Some things~~ in prior deeds and votes appear to be incompatible with current plans and may need to be cleaned up. Ms. McKnight noted she has reviewed the documents. The documents could be characterized as restrictions held by the Town. The restrictions may not be able to be released without a Town Meeting vote. Mr. Alpert asked if the applicant was looking for a May Town Meeting. Mr. Foster stated yes, October is not a realistic time frame.

Mr. Block feels the question of title should be flagged. He knows it will be pursued diligently but he would expect a shared resolution. Mr. Smart noted the key zoning issues with the project include density, dimensional requirements and parking ~~[appearance? ~ requirements?]~~, the review procedure and identifying the proponent of the warrant article. Will it be an overlay or new apartment district? He noted the units per acre for the Apartment A-1 District is a maximum of 18 but the Housing Authority would like 25 units per acre to construct 250 units for an increase of 100 units. He noted 70% of the site is wetlands. There will be sloped roofs rather than flat roofs so greater heights are needed. With sloped roofs, the buildings would be 52 feet and 3 stories or 62 feet and 4 stories. With a flat roof it would be 36 feet for 3 stories or 48 feet for 4 stories. The applicant would like a 20-foot front setback rather than the 25 feet in the Apartment A-1 District. They want to keep it as far away from the wetlands as possible. For parking, Apartment A-1 requires ~~should have~~ 1.5 spaces/unit. The Housing Authority has data usage suggesting .5 is more than enough.

Mr. Alpert noted the Select Board has ~~commissioned~~ conditioned a parking study. The first draft has been done and it shows the Planning Board regulations are out of line. Mr. Block noted the study focused on the Center and the Heights and not the whole of the municipality. That has to be worked on. Mr. Alpert noted his point is that even 1.5 spaces is way too much. Mr. Smart added a lot of residents who live at Linden/Chambers ~~there~~ do not own cars. Mr. Foster noted there is transportation to appointments. Ms. McKnight stated there was a supplement to the recent parking study. Traffic counts were done at several multi-tenant locations and it was found one space was more than enough per unit. She went late at night and counted the cars and spaces at one such development. There were many unused spaces. Mr. Foster stated parking permits are given to NHA tenants. He has several years of data regarding how many spaces are needed. The average is less than .5. Ms. Espada noted there are 200 units and 144 spaces.

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Mr. Crocker noted the setbacks. He stated a building at this height with a 20-foot setback is too close to the street. Mr. Foster noted his second point is the review procedure. They would prefer the proposed use be as-of-right and site issues be handled through the site plan review process. If additional criteria are needed, they could be incorporated into zoning. He hopes the Planning Board would be the proponent for the Article, rather than the Housing Authority, and present at Town Meeting. He discussed what type of district would be appropriate. An Elderly housing overlay district makes more sense than apartment zoning without age restriction. He provided a draft with an overlay that is like what the Town created for the hospital in 1998. The hospital is in 2 districts like Linden/Chambers. Mr. Crocker commented that it is incredibly close to the street. He wants to do as much as they can but this is too close to the street. Visually, this makes the staircase bumpout worse. Mr. Smart noted there are no houses across the street. There is a big field and a school behind that. The closest neighbors are on Maple Street. Mr. Crocker reiterated looking at it down the road there is too much massing. It takes away from the residential look and is more institutional.

Mr. Foster stated they need to stay out of the 50-foot wetland setback line in the back. The Linden Street existing condition has one-story buildings and not 3-story. They are trying to optimize the open space with courtyards. The point is well taken but there is a tradeoff. Mr. Block asked why the stairs are in front and not somewhere else. Dan Chen, of Bargmann Hendrie + Archetype, Inc. (BHA), noted the architectural preference is to break up the façade. This is the conceptual design phase. They can look at 26 feet from the curb to the building and one wing of the building is slightly shorter than the others. Mr. Block does not see the zoning chart with the dimensional regulations he was looking for and compared to the existing conditions. Mr. Chen stated the current setback is 20 feet. Mr. Crocker feels there is a way to accommodate this better.

Ms. McKnight stated the General Residence District's setback is 20 feet. A strip of this is now in General Residence A. She feels the eventual plan is to make it all General Residence. It seems 20 feet would work so the focus should be on the look of the building. The courtyard is lovely but there should be a more residential look. Mr. Crocker stated the Board needs to be realistic. There is much more massing that should be taken into account. This is not the same as a normal residential setback and should be further setback. Mr. Alpert agreed with Mr. Crocker. Three stories, or maybe even 3.5 stories right on Linden Street, is massive. It does not matter that it is across the street from a field. It should be set back. Having the building be 25 to 50 feet from the wetlands should not be an issue. He feels it could be set back and still be out of the wetland and would look better driving down the street. He likes the courtyards. It breaks it up nicely but should be set back.

Mr. Foster stated he had input from the Maple Street abutters. He is planning to meet with the Conservation Commission shortly. A meeting was scheduled but it was postponed. He will get on the Commission's calendar as soon as possible. He noted the map in the packet is accurate. Mr. Alpert prefers a special permit to an as of right use. He does not want to see a private developer in here if it is as of right. If they could legally limit this to government agencies or quasi government agencies rather than for profit he would be inclined to go as-of-right, but. He does not want to do that if it is a private developer. Ms. McKnight stated the ownership has to be private in order to get tax breaks. Mr. Foster noted the Housing Authority will retain ownership of the underlying land and [# unencumbered ownership?] would come back to the Housing Authority but the entities who finance would need an iron clad agreement.

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Ms. McKnight commented on the process of the meeting. The Board members have been able to review the materials but not the public. Mr. Block agreed. Mr. Foster stated that they have met with abutters. They need to embark on comprehensive public engagement if the Planning Board is going to take over. They need to have review and language complete if going to Town Meeting. Hearings would need to be in January but there are substantive changes. This requires more than one hearing and at least 2 community engagements. The Planning Board will create several more opportunities for the community. Margaret Moran, Leader of the Cambridge Housing Authority Team, stated they had a Chair [meeting with the NHA Chair?]. The thought was to have the Housing Authority develop this to the terms required.

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Mr. Block stated Mr. Smart did an excellent job in the base zoning. There needs to be robust community engagement. The Planning Board should take the lead on arranging the community participation. The Board can

discuss this later. Mr. Crocker agreed. He does not feel these plans are ready for the Planning Board to take over. Ms. Espada disagrees with the statement that there are no houses around there. There is a fabric around, setbacks and a landscape as you go down Linden Street. It is at a conceptual stage now, but shows an abrupt scale and landscape change. She needs to see more context and wants to see how it looks in the neighborhood conceptually.

Mr. Foster noted the intention was this is only an informal discussion. He envisioned this round of check-ins now, check-ins with the Conservation Commission and then wrap up the schematic design. If they stay on track the schematics should be done by December. They do not want public hearings in the summer. He wanted to check in to see if they were going in the right direction. He is asking for zoning by right subject to site plan review, noting that the—but it is a funding process requires ing zoning to be in place by right.

Ms. McKnight noted, with regard to height, in front along Linden Street the maximum is 52 feet. She asked if that is to the top of the half story above the third story. That is the same as the Mixed Use on Dedham Avenue. At the rear of the site it was proposed one big angled building would be 62 feet. She wants to make sure, when drafting the decision, it is clear the higher height limit can only be used in the area that is at least 150 feet back from Linden Street. For the process, she wants to see this site as an opportunity for the Town to add these 11 acres to the zone that complies with the MBTA Communities Actlaw Guidelines-supply. She wants to get this zoning in place for this development. It would allow seniors, handicap and low income population. The Housing Authority wants zoning in place for the 2024 Annual Town Meeting. The Board should get this zoning secured for the NHA development, then, moveing forward with the MBTA Communities Actlaw, then-go to the site and change the underlying zoning. The underlying zoning can be Apartment A-1 by right. The developer would go forward with this zoning. That is what she envisions. The underlying zoning will need to have no age limits.

Mr. Alpert would have a backup to see if they could meet the MBTA Communities zoning without that. Ms. Espada would like to see how the height relates to the High Rock School across the street. She feels it would be helpful for context. She feels understanding the relationship is critical. Mr. Foster put up an artist's rendering. They have 25 acres where housing is. It is a beautiful neighborhood with mature trees. It is incumbent upon them to preserve the area. They have had 2 neighbor meetings. They will take those comments and tonight's comments to see the best way to move forward. Mr. Block stated the Board is unresolved as to by right or by special permit. They are also unresolved on the dimensional regulations. Some or all members feel the front setback on Linden may need to be greater. There is also a question on how far you can go in the back and a question on the staircase. Those will not be resolved tonight. He asked how a density of 250 units or 25 units per acre was arrived at.

Mr. Chen stated it came to 252, which was not a definitive number. He wanted to understand the density for what the site can support, the ability to phase and the financial ability to support in the future. The minimum was to replace 150 units – 72 in phase 1A, 72 in phase 1B – and add 100+ units in phase 2. With parking, traffic and impact to the neighborhood that seems to be the right number. Currently Linden has 18 buildings with 4 studio units in each, which is 72. The current design is able to maintain the 72 units in phase 1. Mr. Foster stated the temporary tenant relocation is the number 1 priority. There will be an individual relocation plan for each tenant. Once through the first phase 1A everyone can move back and they will have their own swing space.

Mr. Block asked if the Town has engaged a consultant to assist with financing. Mr. Foster stated an RFP is out for a housing consultant for financing and the [Home Committee?] will also be receiving some financing. He will send the RFP to Board members. Mr. Block noted an email from a number of Sylvan Street residents commenting on a number of elements. Mr. Foster thanked the Board and stated he would continue to work with staff throughout the summer. Mr. Block would like to see the first community meeting in September. He would like conceptual drawings, a dimensional comparison of current versus proposed and would like, by late September, to have had the first 2 meetings/hearings. Mr. Smart asked to clarify the dimensional comparison. Is it what is currently on the ground or dimensional of the underlying zoning. Mr. Block stated the underlying zoning but also the current conditions with the existing housing and new proposed zoning.

Ms. McKnight discussed the timing. Ms. Moran noted there should be the Town Meeting vote to approve the zoning during the Attorney General review period. The Housing Authority would apply for a site plan application and it seems the Board would issue a conditional approval. Ms. Newman feels they should get an opinion from the

new Town Counsel. Mr. Foster stated it is the second time he has done a project like this. He would welcome opinions from the Fire, Police, DPW and all stakeholders this summer.

The Board took a 5-minute break.

Decision: Major Project Site Plan Special Permit No. 2023-02: Shallots Needham, Inc., dba Sweet Boba, Kakada Ly, President, Petitioner (Property located at 1032 Great Plain Avenue, Needham, Massachusetts). Regarding request to renovate approximately 644 SF of first floor space for use as a retail bakery with an accessory eat in/take out counter and 6 seats.

Mr. Block noted they have received comments and a modified decision. Ms. McKnight noted in [Section 3.12](#) regarding solid waste [collection](#), it says weekdays 7:00 a.m. to 6:00 p.m. There are not residential uses nearby [now](#). ~~but- With~~ [With](#) the current zoning the hope is to develop mixed use. In [Section 3.12](#) it has Saturday, Sunday and holiday hours as 7:00 a.m. to 1:00 p.m. She asked why not 11:00 a.m. to 6:00 p.m. Ms. Newman used the same [hours](#) as French Press. Ms. McKnight asked why not make the noisy trucks come later if the hours are being abbreviated. Ms. Clee clarified [that](#) French Press has hours of 9:00 a.m. to 1:00 p.m. Ms. McKnight is ok with those hours.

Upon a motion made by Ms. McKnight, and seconded by Mr. Alpert, it was by a vote of the five members present unanimously:

VOTED: to GRANT: (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) the requested Special Permit under Section 3.2.2 of the By-Law for an eat in/take out establishment accessory to a food retail operation in the Center Business District; (3) the requested Special Permit under Section 3.2.2 of the By-Law for more than one non-residential uses on a lot where such uses are not detrimental to each other and are in compliance with all other requirements of the By-Law; and (4) the requested Special Permit under Section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:

VOTED: to approve the decision as modified tonight and as red-lined.

Discussion of Planning Board Goals & Priorities

Mr. Block stated he has prepared a list of priorities based on ongoing discussions. He has an inventory of priorities and a schedule for goals for this year, what needs to be worked on and by when. He noted there are several categories. The first is a Planning Board retreat for additional training and information. The retreat will be with Town Counsel, staff and members. He will work with Ms. Espada, Ms. Newman and Ms. Clee to devise modules to work on. Training will be an ongoing effort. The work product will have some kind of manual or guideline. He will identify the process, how to deal with zoning and some other elements. They will identify modules, lay out a schedule and then come back to the full Board with a proposal of when they can begin work. The Board will determine zoning best practices.

Mr. Block noted residential zoning amendments. He commented on the Housing Authority Linden/Chambers and stated affordable housing in 6.12 has a minimum standard of 12.5%. Ms. McKnight wants to expand the [12.5%](#) standard townwide. Ms. McKnight noted she wants it expanded in all districts where multi-family housing is allowed. The goal is to always use 12.5% or 1 per 8 units. They usually round up if there are 6 units. She feels the Board should look at [conditioning buildings with](#) 3 to 7 units. Applicants should supply one unit or pay into the Affordable Housing Trust Fund. She would like to explore this concept. Mr. Block stated that would be an action item to discuss.

~~He~~Mr. Block asked if the Board should reconsider detached ADUs and, if so, when? The MBTA Communities ~~C~~compliance effort will start this year, with a view to pass MBTA compliance in October 2024. There is also a concern from residents with the replacement of tear downs and the FAR. An email from Joe Matthews, dated 6/18/23, is included in the packet.

As to tear downs and FAR, Mr. Crocker feels there is a loophole in there to ~~letting~~ these houses get this large. There ~~is~~could be an unfinished upper floor that is then immediately finished. Mr. Alpert noted he went to the By-Law after reading Mr. Matthews letter. There is FAR for 2 floors, but the house can have a finished basement and attic and still meet~~also have~~ the lot area coverage. He would like to get a list of houses Mr. Matthews is complaining about to see what they really look like. Mr. Block asked the staff to reach out to Mr. Matthews to come in to discuss. He should bring examples. Ms. McKnight stated she began a study back in 2019 as she was on the Large House Study Committee. A list of teardowns was created and building permits for a year before and after all in effect. Then Covid hit and she gave it up. She asked if there is the ability to do a study like that. Ms. Newman asked what the priorities are for the next year. The MBTA Communities will take a lot of time. There will be Climate Action and also the Linden/Chambers.

Mr. Crocker stated a whole other floor with living space increased the height of the house. Mr. Alpert noted the mass of the house does not change. There are height limitations. Ms. Newman stated the half story does not count or the basement. The height constraint is 35 feet. The Board has relaxed on how dormers could be used. Mr. Crocker stated people have third floor living space. The loophole in FAR is not supposed to allow that to occur. Mr. Alpert noted the third floor does not change the nature of the house or the neighborhood. Mr. Crocker noted the question is what is counted toward FAR. If living space is expanded, it should be counted toward FAR. Mr. Block will get specific information from Joe Matthews for the Board to look at. Then the Board will look to see if it should be taken on.

Ms. Espada stated it appears from what has been said that the Planning Staff can only do the MBTA Communities, Climate Action and Linden/Chambers in the next 2 years. She asked what they can do as Board members, within the list, that does not require Ms. Newman or Ms. Clee, as they would not have the capacity. She feels the Board needs to prioritize but there is only the capacity for so much. The MBTA Communities will take over once that gets started. Getting into zoning amendments will be tough to do. A discussion ensued.

Mr. Block noted 888 Great Plain Avenue will come in front of them. It would be an opportunity to talk about broader zoning or extending the overlay. Ms. Newman feels it could possibly be rolled into the MBTA Communities through the public process. Ms. McKnight feels 888 Great Plain Avenue zoning a more comprehensive study should be on the list but on the list for a change in the Fall of 2024. ~~It~~ should be kept as a priority on the list but extended until the Spring 2025 Town Meeting. Mr. Block noted his list includes a commercial zoning amendment, 888 Great Plain Avenue, the parking By-Law, unlocking the Charles from Staples through Highland Avenue and Mixed Use 128 and Highland Commercial 128 Districts. Mr. Alpert noted that area was recently rezoned and asked why revisit it. Mr. Block is looking at the broader picture to get revenue for the Town. Ms. Newman commented she would be interested in understanding what the developer's issues are with the Charles. She does not think it is regulatory based. They need to understand what the issue is. Ms. McKnight noted the Board should not forget the Highland Avenue strip from Rosemary Street to May Street. Ms. Clee stated that could be under the MBTA Communities Act~~law~~ compliance effort.

Ms. Espada wants to see what can be looked at at the same time. Some can be integrated into studies but not be individual studies. Mr. Block noted Customary Home Occupation has been brought up by the Building Commissioner. He would like it updated. Ms. Newman feels it makes sense to update and has a draft she will share. Ms. McKnight feels the site plan approval process needs to be looked at, part of the By-Law needs to be revisited, and should be on the list.

Mr. Alpert asked if Mr. Block has spoken with Town Counsel about a retreat meeting with him. Can they have a retreat without violating the open meeting law? Mr. Block has spoken with Town Counsel and Assistant Town Manager Katie King and is on top of it. Mr. Block noted there are a number of changes including solar canopies and solar panels. Large size ground mounted solar panels are in the By-Law already. Does the Board want to

modify for smaller or geothermal? He wants more realistic sustainability goals for the town. He wants to modify the administrative practices that relate to sustainability goals and he wants to ensure zoning is meeting best practices for inclusion, equity and diversity. Ms. Espada asked what information is being collected. Mr. Block noted the Board needs to have a session to talk that through. Zoning needs to be made more inclusive and equitable and facilitate the underrepresented in the process. He noted other Building Commissioner questions include rear lots and corners lots and the site plan review process and procedures. Ms. Newman stated there is a current court case on ~~this~~ site plan review so it should be on hold until the case is resolved.

Mr. Block noted he has already planted anchors in the schedule for these identified training and other category headings. He will add the site plan review process to the next draft. The Planning Board representatives for the MBTA Communities advisory committee will be resolved at the next meeting. He feels there should be 3 community meetings maybe in November, January and April but that is not set in stone. The language would need to be finalized in September. They would want the zoning almost complete but need to be mindful of the process and schedule.

Ms. Espada stated detached ADUs is not a priority. The Board should focus on things that would create the most change and the most opportunity. All agreed. Ms. McKnight noted it is not realistic to have a community meeting in July on affordable housing for the October Town Meeting. She would like to address that for the May 2024 Town Meeting. Mr. Block will move detached ADUs to 2025. Ms. Espada stated sustainability should be a priority. She feels, knowing the priorities, the members should look at them offline then share and review at the next meeting. Mr. Block would like to look at the schedule for Climate Action and sustainability. Ms. Newman noted, realistically, it would be for the May Town Meeting. A discussion ensued.

Ms. Newman asked if the members agree with the draft language from Stephen Frail. Mr. Alpert noted they have not discussed what he says. It needs to be reviewed, have an open meeting to discuss, make changes and see what the public thinks. It would be a multi month product. Mr. Block feels it should be put on the schedule for the May Town Meeting. Ms. Espada noted everyone wants it done quickly but it needs to be done right. Ms. McKnight commented that the spreadsheet is really good and the Board should have it for years. Mixed Use zoning is on the planning list but not on this chart. It should be under commercial. The Tree By-Law is not on the list. The Select Board's goals do not ~~say~~ list Tree By-Law. Mr. Block stated the lead on that will come from the Select Board

Mr. Alpert feels this was a very productive discussion. There are a lot of changes for May. The information should be put together in a chart for May. Then the Board can look at the chart and prioritize the big 3 to bring to Town Meeting. Linden/Chambers is number 1. Then 2 or maybe 3 more could be added.

Minutes

This will be deferred.

Report from Planning Director and Board members.

Ms. Newman is putting together an RFP to get a consultant for the Home Group.

Correspondence

Mr. Block noted a notice from Newton regarding a new village center overlay district hearing and an email from Joe Matthews dated 6/18.

Upon a motion made by Mr. Crocker, and seconded by Ms. Espada, it was by a vote of the five members present unanimously:

VOTED: to adjourn the meeting at 10:32 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk

DRAFT

From: [Maggie Abruzese](#)
To: adam.block@compass.com; psa@westonpatrick.com; [N. Espada](#); [Artie Crocker](#); jeannemcknight@comcast.net; [Planning](#); [Lee Newman](#); [Alexandra Clee](#)
Cc: [Selectboard](#); [Kate Fitzpatrick](#)
Subject: 1688 Central Avenue
Date: Tuesday, September 5, 2023 9:45:52 AM

Dear Mr. Block, members of the Planning Board, Ms. Newman and Ms. Clee,

I'd like to sincerely thank you for all the time, thought and effort you have put into the matter of 1688 Central. You faced novel issues and difficult decisions. I appreciate all of the things that you did to protect Needham's municipal interests, including the interests of those who live near the project and will feel the brunt of its impacts.

I am sure you would love to see the whole 1688 Central matter be in the rear view mirror. I wholeheartedly sympathize. In spite of this though, I would like to ask you to press forward with an appeal. The Land Court decision is contrary to law and contrary to common sense. Site Plan Review exists precisely because it is impossible to predict and create a reasonable bylaw for every possible situation. Each property is unique and brings with it unique challenges that must be considered in their particular facts and circumstances by the Town through the Planning Board and site plan review/special permit.

Needham has chosen to control the bulk of all commercial construction projects with the designations of Minor Project and Major Project in its bylaws. Through this system, larger projects, which are more likely to have detrimental impacts on Needham's municipal interests, are reviewed individually by the Planning Board. If any project (including a daycare or other Dover use) is smaller than a minor project, it is not subject to **any** review by the Planning Board. If it is a minor project, it is subject to site plan review. If it is a major project, it is subject to special permit and site plan review. Any commercial project that does not wish to go through a Planning Board review of any or all elements of site plan review or special permit, need only decrease its size to smaller than the definition of a minor project (generally less than 5000 sq.ft. in a residential zone). Regardless of whether it is a daycare or any other "by right" use, a reduced size project will then **not** be subject to **any** review by the Planning Board. To strip Needham of the ability to control the bulk of proposed child care buildings — through careful evaluation of each element of the minor/major project site plan review process where the developer maintains the control to reduce the bulk of the project below the minor project threshold if it does not wish to mitigate the impacts of larger commercial construction — goes against the explicit words of the Dover amendment which provide that child care centers "may be subject to reasonable regulations concerning the bulk and height of structures, and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements."

Needham, like the many other towns that utilize site plan review, must be able to reasonably regulate the construction of child care buildings through the use of processes that consider the specific elements and issues created by a larger building project. The Land Court's definition of "reasonable regulation" in this case reduces the authority of the Planning Board to that of the Building Commissioner - to making sure that all the minimum dimensional bylaws are met. This has the practical result of nullifying all Planning Board authority with regard to child care centers and

allowing a developer to build to a size limited only by the bare minimum dimensional requirements set forth in the bylaw (which on a three acre parcel of land would be quite gigantic). The Land Court's decision also has the practical effect of foisting upon Needham the detriment of any such project without any ability of the Town to mitigate the harm (for example the irretrievable loss of the residential character of its neighborhoods engendered by a large commercial childcare subject only to minimum dimensional standards of the bylaw within a residential district) and costing the Town money that rightly should be paid by the developer to mitigate those aspects which still are able to be mitigated in some way (for example by use of a traffic detail).

I encourage you to fight to protect Needham's right to reasonably regulate the bulk of a Dover Amendment project through site plan review (and special permit for Major Project new construction) for the sake of this case and all other Dover Amendment cases in Needham.

The costs of an appeal are worthwhile and likely to be less in amount than the costs associated with the Town absorbing the expense and obligation of mitigating the detrimental effects of this large building project that the developer would otherwise absorb. Similarly, having this Land Court decision corrected in whole or in part by the Appeals Court will reduce the costs of each future Dover Project review for Needham since, by virtue of the resolution of an appeal, the Planning Department and Planning Board will not need to spend time and resources fighting with each proponent over the scope of permissible review.

For these reasons, I encourage you on behalf of Precinct D to appeal the Land Court decision in this case.

Thank you.

Sincerely,
Maggie Abruzese
Town Meeting Member, Precinct D

cc: Select Board
 Town Manager

From: [Joe Abruzese](#)
To: [Planning](#)
Cc: [Lee Newman](#); [Alexandra Clee](#); [Kate Fitzpatrick](#)
Subject: Request to appeal 1688 Central land court case
Date: Tuesday, September 5, 2023 2:35:22 PM

Dear Mr. Block, Planning Board Chair, and members of the Needham Planning Board,

Thank you for your extended work and focus on the daycare center project at 1688 Central Avenue. As you know, I am following the project and recent court case. I strongly urge the Planning Board to appeal the recent Land Court decision.

As a Needham resident and a Town Meeting member, it's critical that the Planning Board defend its position. The Planning Board exists to guide the physical growth and development of Needham in a coordinated and comprehensive manner. In particular, it is comprised of 5 individuals to review minor and major projects, and the unique characteristics of each proposal. Each project has its own features, benefits, and impacts that require discussion, review, and consideration. If there was no need for human guidance on minor and major projects, the Planning Board would likely not exist.

The Land Court's annulment of the Planning Board's decision suggests that the Planning Board has no role or responsibility to review 1688 or any Dover Amendment projects. I would agree if 1688 were smaller than a minor project. However, the 1688 project is a major one and has the uniqueness of being a commercial building complex in a single-family residence zone. The Planning Board must have the ability to review the proposal for reasonableness and for Needham's municipal interests. Without the Planning Board, the developer could build the maximum size allowed on the 3-acre property with a disregard for reasonable balance or town interest.

Furthermore, the Court's decision would set a precedent that any Dover Amendment project can bypass the Planning Board. If this precedent is set, we can expect developers of previous and future Dover projects to ask for relief of all conditions the Planning Board has set or will set. This would include the future school construction projects at Pollard, High Rock, and Mitchell.

The Planning Board plays a critical role in our town and every town. In this matter, the Planning Board granted and agreed to allow the daycare project to be built and operate at 1688. The conditions were reasonable, protected the health and safety of workers, clients, and neighboring residents, and it protected Needham's interests for growth.

Please do not accept the Court's misguided decision. It undermines the purpose of the Planning Board which residents and the Town depend upon.

Regards,

Joe Abruzese
Town Meeting Member, Precinct D

From: [HOLLY CLARKE](#)
To: adamjblock@kw.com; psa@westonpatrick.com; [Artie Crocker](#); [JSM](#); [Lee Newman](#); [Alexandra Clee](#)
Cc: [Kate Fitzpatrick](#); [Selectboard](#); [Marianne Cooley](#)
Subject: Request to Pursue Appeal of Land Court Decision on 1688 Central Avenue
Date: Sunday, September 10, 2023 2:01:49 PM

Dear Chairman Block and Members of the Planning Board,

I write to urge you to appeal the Land Court decision involving 1688 Central Avenue.

From the beginning of its consideration of this project, the Planning Board worked very hard to fulfill its role as the elected Board charged with applying zoning statutes and bylaws and to fairly accommodate the interests of all parties. The Board considered information from the developer, a proposed tenant, town boards and departments, and residents to understand and address the problems and challenges created by placing a daycare facility of this size at this specific neighborhood location. Accommodating the developer and proposed tenant in its decision, the Board approved the exact building the developer requested. The conditions it added were, after extensive deliberation, found necessary to address the very real and demonstrated concerns created by the proposed new building on that site. Many of the conditions were agreed to by the developer and those agreements heavily influenced the Board's decision making, notwithstanding the developer's decision to walk away from his commitments during the litigation. The problems identified and addressed by the Board - including traffic and safety, preservation of the residential character of the neighborhood through setback, and screening to protect the adjacent homes and residents - have not gone away; they remain. For example, the risks of cars backing up onto Central Avenue or queuing on Central Avenue are certainly made worse by a smaller setback. These and other issues were the focus of hundreds of citizens expressing themselves through a letter of concern, written comments, and by attending multiple meetings to address the Planning Board and the Board of Health. The Planning Board strove to protect the town and its citizens by fulfilling its designated role through the site plan review process. Although I appreciate the distance it has traveled, the Planning Board's duty to protect the legitimate interests of the town and neighbors is not yet satisfied. Appealing the Land Court's decision is the next essential step to complete the Board's efforts to protect the town and neighbors' completely legitimate interests in this case.

Further, an appeal is necessary to preserve the town's ability to protect its interests in the future. The Judge's decision goes beyond rejecting the Planning Board's factual findings in this particular case, though that alone would be bad enough to merit an appeal (both because of its impact on the town and neighbors, and its legal errors). The decision effectively eliminates the application of the town's site plan review/special permitting bylaws to section MGL ch 40a s.3 users. The decision rejects earlier cases allowing special permitting for the new construction of child care facilities and other section 3 users, ignores the applicability of site plan review as a less restrictive zoning tool available to the town instead of special permitting through the severability of the bylaws, and goes so far as to

eliminate any discretion in the Planning Board in reviewing proposed section 3 projects, which could include not only daycare centers but religious, educational and other structures for uses protected under that section. The Court's reasoning will undoubtedly be used by future developers and other proponents to argue that the Board has no authority to look beyond existing minimum dimensional by-laws to apply reasonable restrictions necessary to mitigate the adverse impacts of their projects on neighborhoods. The decision is at odds with established precedent, which has long accepted site plan review as a legitimate means to evaluate projects which require review beyond the minimum dimensional bylaws, and also affirmed the power of cities and towns under site plan review to fashion appropriate, discretionary conditions to protect legitimate municipal interests. The decision virtually requires bylaws specifically addressed to daycare facilities and other section 3 users, a position long rejected by the Courts. Appealing the decision is necessary to retain Needham's authority to reasonably regulate future projects.

Finally, Needham's use of site plan and special permitting is inline with the practices of many other cities and towns addressing child care facilities. In fact, Needham uses site plan review and special permitting to regulate bulk, which is specifically permitted by section 3. Needham's site plan review or special permitting **only** applies to **construction** projects and is triggered by a project's proposed square footage, gross floor area or parking requirements. The town's discretion is not unfettered as the bylaws identify the municipal interests the town will consider in evaluating projects with such a large bulk. The Planning Board might have required a smaller building, but instead approved the exact building the developer requested, only applying conditions to mitigate the concerns raised by constructing a large commercial facility in this particular spot. The Board's discretionary authority actually facilitates bulkier projects as long as the recognized harms can be mitigated. Finally, the Board's authority to issue conditions helps protect the town and residents' interests by incentivizing developers to meet with neighbors and incorporate their knowledge and concerns into proposals.

The proposed project will impact the neighborhood forever. While people may choose to enroll at the daycare business or not, the families who live here will always have to cope with the issues the Planning Board addressed in its decision. Please continue to defend the town and neighborhood's interests by appealing the Land Court decision.

Thank you for your consideration.

Holly Clarke
1652 Central Avenue
617-816-0607

From: [Caren Carpenter](#)
To: [Selectboard](#); [Planning](#)
Cc: [Garlick, Denise - Rep. \(HOU\)](#); dianababson60@gmail.com
Subject: Diana Babson - 21 Mellen Street
Date: Wednesday, September 6, 2023 6:21:35 PM
Attachments: [dianababsonletterseptember2023.pdf](#)

Hi all,

I'm writing on behalf of my 81 year old friend Diana Babson who lives at 21 Mellen Street. Her back and side property abuts a new house being built at 609 Hunnewell Avenue.

Diana posted on the Needham MA Facebook page last week about a water runoff issue she's having with a new house going up behind her. Diana has lived in Needham for 53 years with the last 20 years being at the house on Mellen Street. Until this new house went up Diana never had a problem with water runoff. Coincidentally enough Diana's neighbor directly in back of this house has had water runoff in their yard as well.

It appears that drainage issues with new homes being built in Needham come up quite often and there are no real avenues to address them. Builders scoff and laugh when abutters complain and not until someone threatens legal action do the builders do the right thing.

This happened to me on Douglas Road where we have lived for 37 years. A new house goes up 4 years ago, the land is graded to dip towards my yard and for 8 months I had water and mud runoff. I called the building inspector many times and he did what he could. It wasn't until I threatened to sue the builder and the town that the builder finally put in french drains around the two sides and the back of the house and a storm drain in the yard that directly abuts mine.

Why do Needham residents have to go through so much to protect their precious property? Why do we have to worry and be anxious about water damage because land next door has been raised by one or two feet by larger foundations and graded improperly? Why do we have to deal with builders not doing all they can to protect our property from water runoff until they are threatened with legal action? Yards and garden beds are being destroyed and washed away with water runoff being purposefully directed at our property. Some people have had basement water damage as well. Needham residents pay a fortune and work hard to keep their lawns and gardens looking nice.

Diana's backyard is just gorgeous and she maintains it meticulously. The pictures attached show the mulch being washed away by the water runoff coming from the build out of the new house behind her. To make matters worse the builder is/was

careless as he graded to put in a patio but then lets the rest of the land in back of the patio and to side of the patio dip down in such a way that it's almost a hill with a real gully at the bottom and on the side that it aligns with the entire side of Diana's property. The back of the property slopes down and absolutely causes the water to run off into Diana's neighbor's backyard. I'm told the neighbor spoke to the builder and he said it wasn't his water. You don't have to be trained as a landscaper to see the enormous slope and downward grade of the back and side of that property.

Apparently the builder did put in french drains around the house and the downspouts from the house connect to them, which is great, and Diana is most appreciative. But more needs to be done. The area where the gully forms is far from the house and it's a mess. The berm socks that were attached when the building inspector saw the property last week have been detached so there is now open space again for the water to run off directly towards Diana's property.

The building inspector met with Diana and saw the property and the damage to it and he obviously saw cause for action because he asked the builder to put up a retaining wall. The builder is not considering it and the building inspector told Diana he cannot force him to.

I'd check out the Needham MA Facebook page because there are hundreds of stories like Diana's about new houses going up and neighbors suddenly having water problems when there were none before. The most egregious and horrifying story was about an elderly lady who had a new house go up next door. Soon water flooded her backyard and her pool. She went next door and told the workmen what happened and they laughed in her face. She told them she was going to the building department. They said go ahead, they won't do anything. She called her son who contacted the builder and he threatened legal action. The builder fixed the problem.

I am saddened that this happens in our beautiful town. I am saddened that people have to worry about protecting their property from disrespectful builders who know they can get away with it. What upsets me the most are the senior citizens who have to fight these battles when all they want to do is live in peace and enjoy their yards. Our town should and needs to do better to help property owners protect their property. No one in our community should have to threaten legal action in order to get builders to respect abutters and their property or to do the right thing.

Diana says that the builder told her that once the grass is in, the problem will be solved. Yeah, no, that's a stalling tactic because once the house is sold it becomes the new owner's issue and that's despicable. The hill leading to the gully is not going to have grass planted. It's full of branches, plants and bushes and as I said, it's a mess.

This has been an ongoing issue for years and in my humble opinion it hasn't been addressed properly. Is there a component in the permit process to address drainage issues and grading issues? It's so obvious to abutters that there is an issue, why isn't someone from the town addressing it in a way that helps property owners. The water runoff problems are almost immediate. Right now the only action any of us has is to threaten to sue the builder and the town. How is that right or appropriate? I'm sure the town has very strict storm water regulations during the permitting and construction phases of commercial buildings, there should be the same strict regulations for residential buildings.

Here's more flavor about my situation 4 years ago. The builder let overflowing dumpster trash blow around the neighborhood. I sent many emails with photos to the building inspector. The inspector called the builder and the builder finally emptied his dumpster regularly. One day I came to his workmen burning toxic pre-treated shingles in an aluminum trash can. I called the fire department and they came and told him to extinguish it. With the help of a builder friend I learned the terms berm sock and swale, both of which I had to beg for and were never initially put down at the start of construction. I sent photos of the water and mud to the building inspector and the builder acquiesced. I also had to beg for bales of hay as the water runoff issues became worse over time. I then had to listen to the workmen during spring days when all my windows were open as they talked about what a shrew I was. Can you even imagine how I felt? I'm trying to take care of my beautiful property because the builder is ruining it and I'm the one at fault? And as I said above, when I called the building inspector for the last time and said, "I don't know how this ends, but I'm done begging you to help me protect my property. I'll see you all in court." A few days later the trenches were being dug for the french drains. This consumed my life for 8 months and that's not okay!

Needham needs to do better and should do better and should work on protecting their citizens from this kind of serious issue and disrespectful behavior that we have to endure. Although I don't believe this to be true, many on the Needham Facebook page post about the town caring more about the builders (i.e tax revenues) than they do about the people who actually live here. That's casting the town in a very bad light.

I hope someone can help Diana because what she's having to deal with is not right. She deserves better from the town and especially from the builder. And I hope something can be done to help other property owners in the future.

Thank you all very much for your kind attention to this matter.

Caren Carpenter
28 Douglas Road

Needham, MA 02492
617-285-0265

DIANA BABSON
21 MELLE STREET
NEEDHAM, MA 02494

339-225-109

VIA: CERTIFIED MAIL

September 7, 2023

Aleksandra Verbiyan and Rostislav Verbiyan
609 Hunnewell LLC
140 Allen Avenue
Newton, MA 02468

Mr. And Mrs. Verbiyan:

RE: New home buildout at 609 Hunnewell Aveue, Needham

First, I would like to say thank you for hooking up the roof drains into the holding tanks and also for the placement of silt sock along your property to help alleviate the water run-off issues into my backyard. Previous to you implementing the hook up and silt socks, damage was done to my property as the Commissioner observed at our on-site meeting. The runoff removed a good portion of the mulch and pushed it all onto the lawn. So, your improvements to contain the runoff have helped in that area.

However, I remain incredibly concerned about the gully that is in the backyard against my fence and property and away from the drains and downspouts of the house. According to the Building Commissioner you have raised the level of the land the house is built on by at least 12 inches. It appears that you have purposefully left this gully so that the rain and run-off flows into this gully. Since you have graded the backyard so that it slants into my backyard, the gully naturally fills with water and because the bottom of this gully is level with my property it drains into my back yard. I appreciate that once grass is planted it will absorb some of the rain and run off for a portion of your lot abutting my yard, but certainly not for the gully portion that you have left unattended. Planting grass or laying sod will not address the issue for the gully. I understand the Building Commissioner has recommended you put in a retaining wall, but you are not considering it. Some type of storm drain should be connected to the holding tanks to prevent further water problems. Something needs to be done before the house is sold. I have attached photos showing the damage done to my property from the runoff.

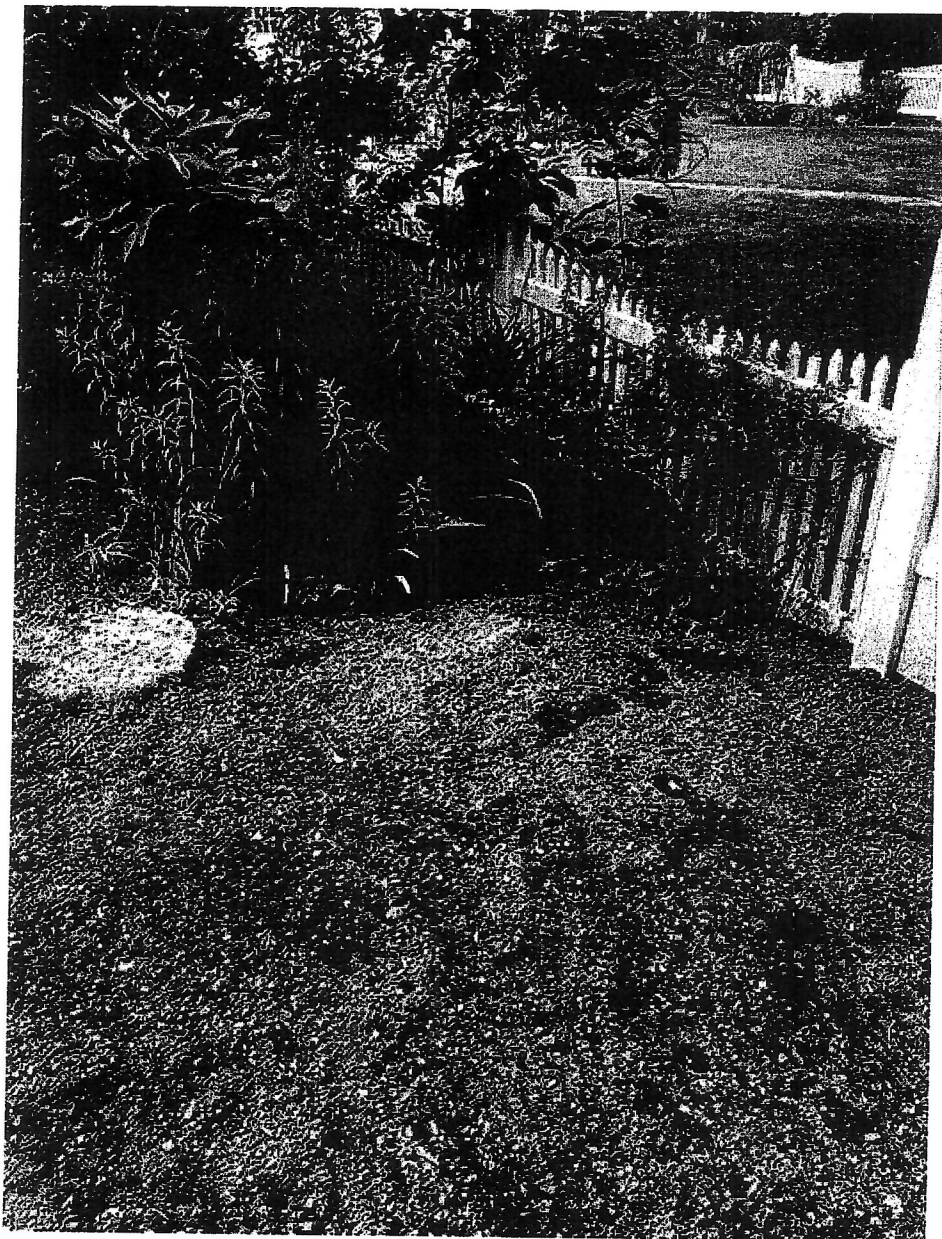
It pains me to have to continually request that these matters be addressed. I am 81 years old and have lived in Needham for 53 years. I love this community and my home. My backyard is my Garden of Eden giving me peace in my senior years. Now it has become a battleground for me. Rest assured, I will fight hard and do whatever it takes for my right to protect my property.

Thank you,

CC: Joseph Prondak, Building Commissioner
Attachments: Photos of damage and gully above mentioned

Diana Babson

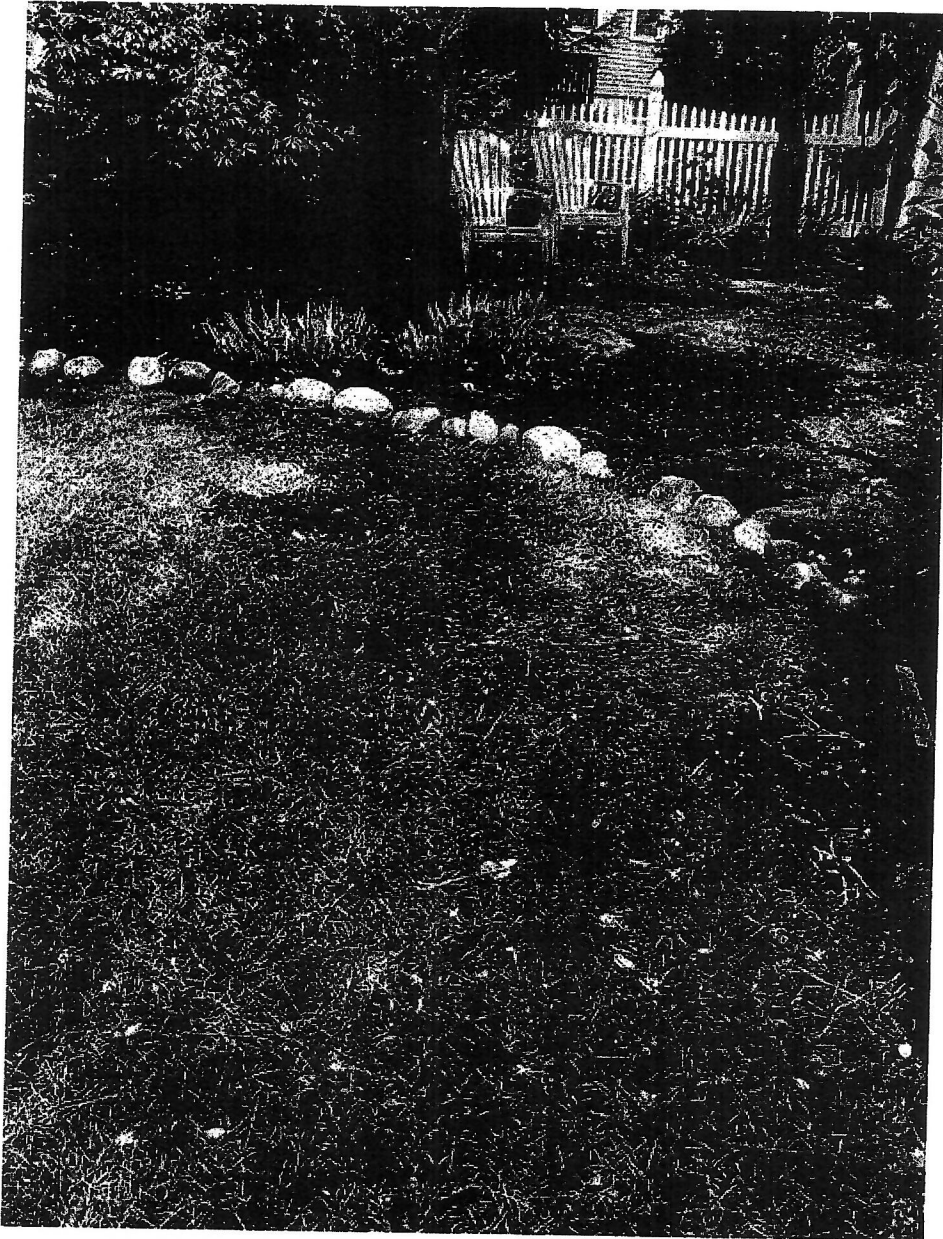
From: dianababson60@gmail.com
Sent: Wednesday, September 6, 2023 12:37 PM
To: Diana Babson



Sent from my iPhone

Diana Babson

From: dianababson60@gmail.com
Sent: Wednesday, September 6, 2023 12:07 PM
To: Diana Babson



Sent from my iPhone



**Town of Needham
Building Department
500 Dedham Avenue
Needham, MA 02492
Tel: 781-455-7550**

May 9, 2023

Zoning Board of Appeals

Re: Application review for the September 11, 2023 Hearing, 1458 Great Plain Ave., Tobin Beaudet Schools Inc.

Dear Board Members,

This office has reviewed the application related to 1458 Great Plain Ave. seeking a temporary amendment to a Special Permit which would waive certain parking and design requirements in Section 5 and 7 of the Zoning Bylaw.

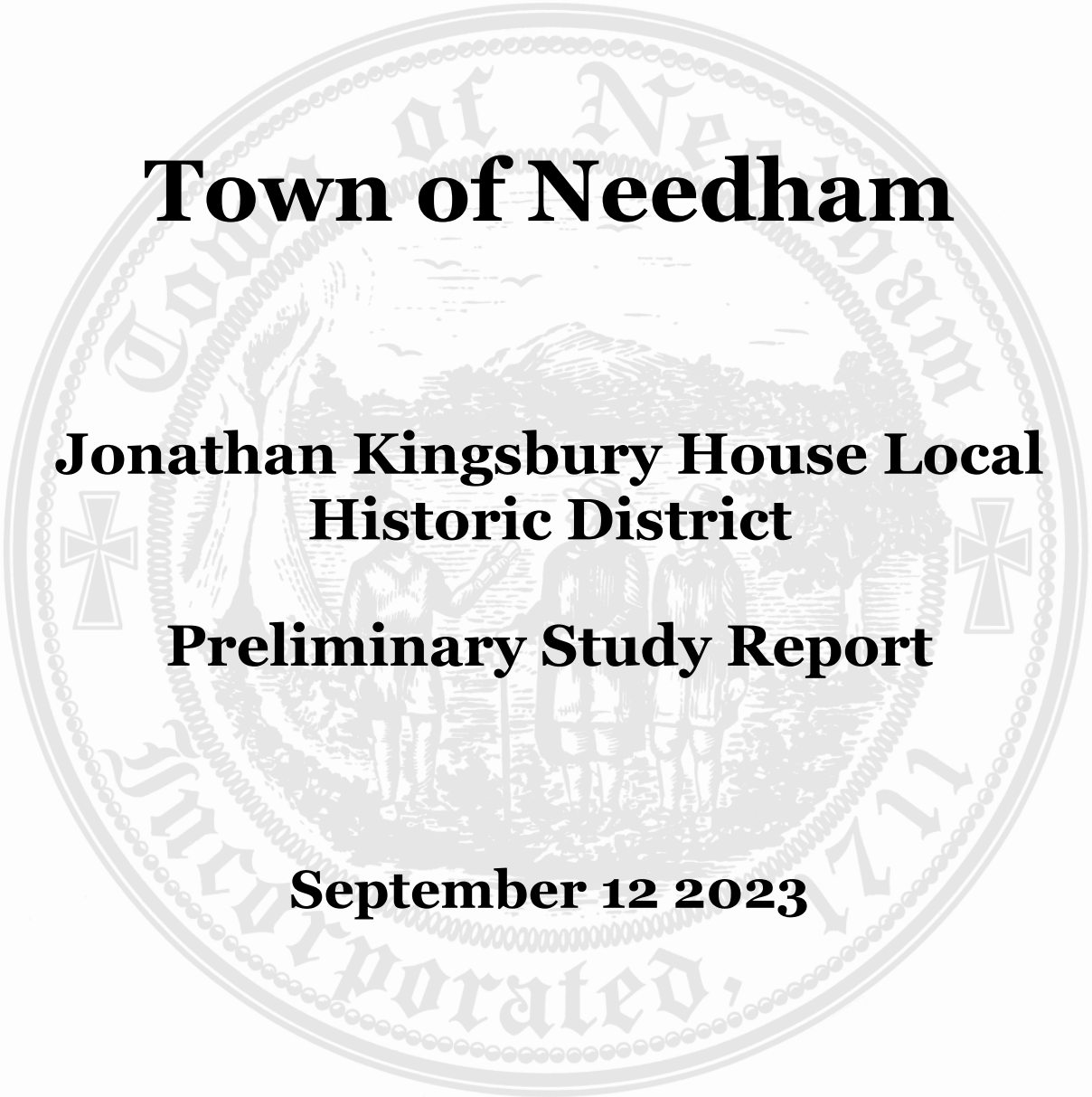
It is my position that no amendment to the existing Special Permit is required for this proposal. This determination is based on the following:

1. The Town is precluded by Mass. General Law, Chapter 40A, Section 3 (the Dover Amendment) from issuing a Special Permit to a daycare use and
2. The Zoning Bylaw contains no parking requirements specifically for daycares and that the second to last paragraph in Section 5.1.2 is not an appropriate path to determine parking requirements for uses protected by the Dover Amendment and
3. The Dover Amendment does not allow municipalities to regulate or consider traffic, landscaping or lighting for daycare uses.

I had informed the Applicant of my position on this prior to and shortly after their application. I suspect they may seek to withdraw their application.

Sincerely,

Joe Prondak
Building Commissioner



Town of Needham

Jonathan Kingsbury House Local Historic District

Preliminary Study Report

September 12 2023

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Summary Sheet

Contact Information

- Chair: Alison Borrelli
- Clerk: Kimberly McCollum
- Staff Liaison: Myles Tucker
- Email:
SingleParcelLocalHistoricalDistrictStudyCommittee@needham1711.onmicrosoft.com
- Phone Number: 781-455-7500 x204

Single Parcel Local Historic District Study Committee

- Alison Borrelli, Chair (Greater Boston Association of Realtors)
- Kimberly McCollum, Clerk (At-Large)
- Adam Block (Planning Board)
- Robert Dermody (American Institute of Architects)
- Gloria Greis (Needham History Center and Museum)
- Maurice Handel (District Resident)
- Don Lankiewicz (Historical Commission)

Expected Date of Public Hearing

- November 16, 2023

Expected Date of Town Meeting Vote

- May 6, 2024

Total Number of Properties included in the Proposed Local Historic District

- One – 3 Rosemary Street, Needham, MA 02494

Conclusion of Preliminary Study Report

- Adoption of proposed by-law and establishment of the Jonathan Kingsbury House Local Historic District

Introduction

For more than 60 years, towns in the Commonwealth of Massachusetts have been creating local historic districts as a means to protect their historic houses and neighborhoods from demolition and insensitive change. During that time, local historic districts have proved to be one of the strongest forms of historic preservation, helping save thousands of significant properties across Massachusetts.

The historic district movement began in the United States in 1931, when the city of Charleston, South Carolina, enacted a local ordinance designating an “Old and Historic District” administered by an architectural review board. Following a 1936 amendment to the Louisiana Constitution, the Vieux Carré Commission was created in 1937 to protect and preserve the historic French Quarter in New Orleans. The regulations of these districts provided that no changes could be made to the exterior architectural features of buildings, structures, and sites visible from a public street without the review and approval of a historic district commission. These first districts served as models for similar efforts to protect local historic properties across the country.

Massachusetts first made use of this tool for historic preservation in 1955. Special Acts of the legislature created the first local historic districts on Beacon Hill and on Nantucket. Special Act Districts in Lexington and Concord were established between 1956 and 1960. In 1960, a statewide enabling statute, known as the Historic Districts Act, Massachusetts General Law, Chapter 40C, was enacted to empower municipalities to establish their own local historic districts. Under MGL Chapter 40C, a two-thirds majority city council or town meeting vote can establish the means for creating a local historic district and establishing a local historic district commission to administer it.

Over 100 communities in Massachusetts now have local historic districts, which vary greatly in size and in the number of historic properties each contains. Some are very large, such as the Provincetown Historic District, which contains more than 1,000 properties, and the local historic district for Nantucket, which includes the entire island. Yet a local historic district in Massachusetts under MGL Chapter 40C can contain “one or more parcels of land, or one or more buildings or structures on one or more parcels or lots of land.” More than any other community, Somerville has taken advantage of this part of MGL Chapter 40C to create more than 260 local historic districts consisting of only one parcel. Fewer single-parcel local historic districts have been established in Brookline, Huntington, Lincoln, Sharon, Springfield, West Springfield, and Wellesley. Wellesley created its first two single-parcel historic districts in 2011.

Currently, Needham has no local historic districts of any size, but the town does have two National Historic Register Districts—the Needham Town Hall Historic District and the McIntosh Corner Historic District. Needham also has a number of structures individually listed on the National Register of Historic Places, including Echo Bridge, the Emery Grover Building, Needham Street Bridge, the Amos Fuller House (220 Nehoiden Street), the Robert Fuller House (3 Burrill Lane), the Davis Mills House (945 Central Avenue), the Israel Whitney House (963 Central Avenue), the Townsend House

(980 Central Avenue), the Tolman-Gay House (1196 Central Avenue), the James Smith House (706 Great Plain Avenue), the Joshua Lewis House (178 South Street), and the Kingsbury-Whitaker House (53 Glendoon Road).

This federal designation is essentially honorary and provides no practical protection from demolition. Additionally, work on such properties would only be reviewed if it involved Federal permitting, licensing, or funding.

Beyond this, the current town Demolition Delay By-law (2.11.5) permits the Needham Historical Commission to delay demolition for six months for structures listed on the town Inventory of Historic Houses, though there is no way to prevent the eventual demolition of those structures of historical significance to the town. Thus, there is a need to create a stronger form of protection for historic properties by way of a new by-law to establish local historic districts. Such districts would provide additional protections to covered homes relative to the existing by-law, specifically the ability for a historical district commission to deny demolition of a home within the bounds of a historic district.

Local historic districts provide for review of changes to historic properties. Instead, they allow for a process of public review and the thoughtful consideration of proposed changes, to make certain the changes are in keeping with the history and integrity of the protected properties. Just as important, local historic districts benefit the whole town by preserving the town's unique cultural heritage and fostering community pride. They help maintain the town's architectural integrity and promote environmental sustainability. By encouraging the adaptive reuse and rehabilitation of existing structures, local historic districts reduce the need for new construction and the associated consumption of resources. These advantages contribute to the overall livability, economic vitality, and cultural richness of the town.

This Preliminary Study Report presents a rationale for establishing a single-parcel local historic district at 3 Rosemary Street, the Jonathan Kingsbury House built in 1779. The house, which is on the town Inventory of Historic Houses, is the oldest and historically most important house standing in Needham Heights. It represents the Heights' largest landowner and one of its most significant families. Establishing this single property as a local historic district recognizes and preserves it as an integral part of the town's legacy and a treasured asset deserving of protection from demolition and inappropriate alteration.

Methodology

The Single Parcel Local Historic District Study Committee was formed by the Select Board on January 10, 2023 to consider designating the property located at 3 Rosemary Street as a single parcel historic district. The Select Board appointed all seven members of the Committee.

The formation of this Committee was the result of an effort begun two years ago, in 2021, by the Needham Historical Commission who has a longstanding interest in preserving houses on the Town and State historical inventory lists. The volunteering property owners also desire to preserve the unique characteristics of the subject property dating back to its construction 244 years ago in 1779, as one of the oldest remaining original homes of Needham. The current property owners, who have lived in the house for 36 years, desire such a designation which is not believed to negatively impact any neighboring property.

Research on the subject property has been conducted by the Needham History Center and Museum, the Needham Historical Commission in addition to previous and current property owners. Authors also researched the house for Old Homes of Needham, published in 1953 and Images of America – Needham, published in 1997.

The Committee intends to conduct a public hearing to engage the community for any feedback on the proposal to create a single parcel local historical district for the subject property. The notice of hearing will be published in the local newspaper, local digital news sites, shared on town social media sites and emailed to town meeting members.

The Committee intends to hold a public hearing in November 2023 and place the proposed district by-law before Town Meeting in May 2024.

Significance

The proposed district is comprised of the house and grounds at 3 Rosemary Street in Needham, known as the Jonathan Kingsbury House and built in 1779.

The Kingsburys were one of the first families settled in Needham. The earliest attested land grants within the land area that would become Needham are to John Kingsbury of Dedham, dated to 1636 and 1637. There were four Kingsburys among the 40 men who signed the Petition to the General Court that separated Needham from Dedham in 1711.

Jonathan Kingsbury, Jr (1744-1816) was a great-grandson of the John mentioned above. He built the house in 1779 to accommodate his large and growing family. Jonathan Jr. owned a sawmill in the nearby Rosemary Meadows. He was a Colonel in the Needham Militia East Company, mustered to Lexington and Menotomy in April 1775, and serving over the next several years at Dorchester Heights and Boston, and was discharged in May 1778. He also served the Town as its Representative in General Court for five years, Justice of the Peace, Selectman (12 years), Town Clerk (three years), Town Treasurer (13 years), and Assessor (15 years); some of these offices were served concurrently.

Descendants of Jonathan Kingsbury, Jr, also served the town in many important capacities over the years. There were members of the Kingsbury family living in Needham well into the 20th century.

Old maps and deed records show that the property originally extended for 132 acres, across Webster Street and down Rosemary Street; it was subdivided by inheritance and sale over the years to its present size. The Kingsbury family owned extensive property in the area now known as Needham Heights, roughly covering the land bounded by Nehoiden Street, Great Plain Avenue, Highland Avenue, and Manning Street. Within these boundaries are there are four historic Kingsbury houses still standing, and several more that have been demolished over the years. The Jonathan Kingsbury House is the oldest of these extant houses, and the oldest standing house in Needham Heights.

The house is a standard five-bay center-entry colonial, typical of Needham residential building in this time. The main house block and original ell are still intact, and sit on their original foundation. There has been an extension to the ell to form the garage (mid-20th century), a back porch (1940s), and modern additions to widen the ell toward the back of the property. Of these, only the garage extension is visible from the street. The house originally faced Webster Street, but the addition of a fireplace and chimney in the 1950s shifted the main entrance to the Rosemary Street side, and altered the appearance of the house. This chimney was removed a few years ago, and the Webster Street façade was restored to its original appearance, although it no longer functions as an entrance.

The chimneys, clapboards, windows, and shape of the current house are consistent with its historic appearance. The interior has been extensively altered, though there are preserved historic materials (especially on the second floor). Overall, the house is well-

maintained and in good shape. Its physical systems have been modernized, and solar panels were added to the roof, after consultation with the Needham Historical Commission.

The house is not included in the National Register of Historic Places (NRHP), and there is no record of whether an application to the NRHP was made for this house.

Although this home is not listed in the National Historic Register, this home is one of a shrinking number of historic homes in Needham. Since 1976, 24 18th century homes on the Town's historic inventory have been demolished. Only 96 remain today.

Justification of the Boundaries

The proposed district boundaries are comprised of the current lot lines, as surveyed, of 3 Rosemary Street.

The reason these boundaries are being proposed is that they do not affect rights or options available to the immediate abutters of the proposed district. That means that only the current owners of the only property in the proposed district, and the included structures on that property, are affected by the change in status and will be subject to the restrictions that will be in place when the district is approved. That also means that any potential reduction in value and a potential delay in any future sale of 3 Rosemary Street will not apply to any other properties.

This property was suggested for a Single Parcel Local Historic District given the relatively contemporary homes situated around the proposed property.

Property Street Address Index

1. 3 Rosemary Steet, Needham, MA 02494

Street Address	Parcel ID	Historic Name	Date of Construction	Architectural Style	MHC ID
3 Rosemary St	1990620000100000	Jonathan Kingsbury House	1779	Colonial	NEE.7

Options and Recommendations for the By-Law

The Needham Single Parcel Local Historic District Study Committee recommends that Town Meeting adopt this draft by-law, establishing a Local Historic District Committee and the Jonathan Kingsbury House Local Historic District, as presented in this report. This report notes the single-parcel nature of the proposed district, strong support of the property owners, and broader desire among residents to take steps to preserve historic homes.

The draft by-law, in line with Massachusetts Historical Commission best practice, is derived from a proven template used successfully in other municipalities to create their historic district committees and historic districts.

The draft by-law:

- Draws heavily from relevant Massachusetts General Law and peer community by-laws incorporating local historic districts and historic district committees
- Would create a proposed single parcel historic district which is strictly voluntary and has the consent of the homeowners
- Must be adopted by Town Meeting
- Can only be amended by Town Meeting
- Will establish a Historical District Commission responsible for approving or disapproving proposed demolition or structural alteration of homes within established historic districts
- Will not permit the Commission to consider interior arrangements or architectural features not subject to public view from a public way

The Committee recommends moving forward with a public hearing on the proposed by-law and historic district in November 2023, following submission of the Preliminary Study Report to the Massachusetts Historical Commission.

Draft Local Historic District By-Law

Preamble

The Town of Needham hereby establishes a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws Chapter 40C, as amended.

1. Purpose

The purpose of this By-law is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Needham, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the existing architecture.

2. Definitions

The terms defined in this section shall be capitalized throughout this By-law. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this By-law the following terms shall have the following meaning:

ALTERATION, TO ALTER

The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition, and other similar activities.

BUILDING

A combination of materials forming a shelter for persons, animals or property.

CERTIFICATE

A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this By-law.

COMMISSION

The Historic District Commission as established in this By-law.

CONSTRUCTION, TO CONSTRUCT

The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

DISPLAY AREA

The total surface area of a SIGN, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the SIGN. The DISPLAY AREA of an individual letter SIGN or irregular shaped SIGN shall be the area of the smallest rectangle into which the letters or shape will fit. Where SIGN faces are placed back to back and face in opposite directions, the DISPLAY AREA shall be defined as the area of one face of the SIGN.

DISTRICT

The Local Historic District as established in this By-law consisting of one or more DISTRICT areas.

EXTERIOR ARCHITECTURAL FEATURE

Such portion of the exterior of a BUILDING or STRUCTURE as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

PERSON AGGRIEVED

The applicant; an owner of adjoining property; an owner of property within the same DISTRICT area; an owner of property within 100 feet of said DISTRICT area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, BUILDINGS or districts.

SIGNS

Any symbol, design or device used to identify or advertise any place of business, product, activity or person.

STRUCTURE

A combination of materials other than a BUILDING, including but not limited to a SIGN, fence, wall, terrace, walk or driveway.

TEMPORARY STRUCTURE or BUILDING

A BUILDING not to be in existence for a period of more than two years. A STRUCTURE not to be in existence for a period of more than one year. The COMMISSION may further limit the time periods set forth herein as it deems appropriate.

3. District

The DISTRICT shall consist of one or more DISTRICT areas as listed in Section 13 (Appendices) of this By-law.

4. Commission

4.1 The DISTRICT shall be overseen by a COMMISSION consisting of between five to seven members to be appointed by the Select Board. one member initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years.

4.2 The COMMISSION shall include, if possible, one member from two nominees solicited from the Needham History Center and Museum, one member from two nominees

solicited from the chapter of the American Institute of Architects covering Needham; one member from two nominees of the Greater Boston Association of Realtors covering Needham; and
one property owner from within at least one of the DISTRICT areas.

If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Select Board may proceed to make appointments as it desires.

4. 3 The Select Board may appoint up to four alternate members to the COMMISSION. Each alternate member shall have the right to act and vote in the place of one regular member should such regular member be absent from a meeting or be unwilling or unable to act or vote. Said alternate members shall initially be appointed for terms of two or three years, and for three year terms thereafter.

4.4 Each member and alternate member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.

4.5 Meetings of the COMMISSION shall be held at the call of the Chair, at the request of two members and in such other manner as the COMMISSION shall determine in its Rules and Regulations.

4.6 A majority of the appointed membership of the COMMISSION shall constitute a quorum.

5. Commission Powers and Duties

5.1 The COMMISSION shall exercise its powers in administering and regulating the CONSTRUCTION and ALTERATION of any STRUCTURES or BUILDINGS within the DISTRICT as set forth under the procedures and criteria established in this By-law. In exercising its powers and duties hereunder, the COMMISSION shall pay due regard to the distinctive characteristics of each BUILDING, STRUCTURE and DISTRICT area.

5. 2 The COMMISSION may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this By-law or M.G.L. Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for CERTIFICATES, fees, hearing procedures and other matters. The COMMISSION shall file a copy of any such Rules and Regulations with the office of the Town Clerk.

5.3 The COMMISSION, after a public hearing duly posted and advertised at least 14 days in advance, may adopt and from time to time amend guidelines which set forth the designs for certain EXTERIOR ARCHITECTURAL FEATURES which are, in general, suitable for the issuance of a CERTIFICATE. No such design guidelines shall limit the right of an applicant for a CERTIFICATE to present other designs to the COMMISSION for approval.

5.4 The COMMISSION shall at the beginning of each fiscal year hold an organizational meeting and elect a Chair, a Vice Chair, and Clerk, and file notice of such election with the office of the Town Clerk.

5.5 The COMMISSION shall keep a permanent record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.

5.6 The COMMISSION shall undertake educational efforts to explain to the public and property owners the merits and functions of a DISTRICT.

6. Alterations and Construction Prohibited Without a Certificate

6.1 Except as this By-law provides, no BUILDING or STRUCTURE or part thereof within a DISTRICT shall be CONSTRUCTED or ALTERED in any way that affects the EXTERIOR ARCHITECTURAL FEATURES as visible from a public way, unless the COMMISSION shall first have issued a CERTIFICATE with respect to such CONSTRUCTION or ALTERATION.

6.2 No building permit for CONSTRUCTION of a BUILDING or STRUCTURE or for ALTERATION of an EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT and no demolition permit for demolition or removal of a BUILDING or STRUCTURE within a DISTRICT shall be issued by the Town or any department thereof until a CERTIFICATE as required under this By-law has been issued by the COMMISSION.

7. Procedures for Review of Applications

7.1 Any person who desires to obtain a CERTIFICATE from the COMMISSION shall file with the COMMISSION an application for a CERTIFICATE of Appropriateness, of Non-Applicability or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the COMMISSION to enable it to make a determination on the application.

7.2 The COMMISSION shall determine within fourteen (14) days of the filing of an application for a CERTIFICATE whether said application involves any EXTERIOR ARCHITECTURAL FEATURES which are within the jurisdiction of the COMMISSION.

7.3 If the COMMISSION determines that an application for a CERTIFICATE does not involve any EXTERIOR ARCHITECTURAL FEATURES, or involves an EXTERIOR ARCHITECTURAL FEATURE which is not subject to review by the COMMISSION under the provisions of this By-law, the COMMISSION shall forthwith issue a CERTIFICATE of Non-Applicability.

7.4 If the COMMISSION determines that such application involves any EXTERIOR

ARCHITECTURAL FEATURE subject to review under this By-law, it shall hold a public hearing on the application, except as may otherwise be provided in this By-law. The COMMISSION shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the COMMISSION to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the COMMISSION shall deem entitled to notice.

7.4.1 A public hearing on an application for a CERTIFICATE need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a CERTIFICATE may be waived by the COMMISSION if the COMMISSION determines that the EXTERIOR ARCHITECTURAL FEATURE involved, or its category, is so insubstantial in its effect on the DISTRICT that it may be reviewed by the COMMISSION without a public hearing. If the COMMISSION dispenses with a public hearing on an application for a CERTIFICATE, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the COMMISSION to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the COMMISSION may act upon such application.

7.5 Within sixty (60) days after the filing of an application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall issue a CERTIFICATE or a disapproval. In the case of a disapproval of an application for a CERTIFICATE, the COMMISSION shall set forth in its disapproval the reasons for such disapproval. The COMMISSION may include in its disapproval specific recommendations for changes in the applicant's proposal with respect to the appropriateness of design, arrangement, texture, material and similar features which, if made and filed with the COMMISSION in a subsequent application, would make the application acceptable to the COMMISSION.

7.6 The concurring vote of a majority of the members shall be required to issue a CERTIFICATE.

7.7 In issuing CERTIFICATES, the COMMISSION may, as it deems appropriate, impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this By-law.

7.8 If the COMMISSION determines that the CONSTRUCTION or ALTERATION for which an application for a CERTIFICATE of Appropriateness has been filed will be appropriate for or compatible with the preservation or protection of the DISTRICT, the COMMISSION shall issue a CERTIFICATE of Appropriateness.

7.9 If the CONSTRUCTION or ALTERATION for which an application for a

CERTIFICATE of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a CERTIFICATE of Hardship, the COMMISSION shall determine whether, owing to conditions especially affecting the BUILDING or STRUCTURE involved, but not affecting the DISTRICT generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this By-law. If the COMMISSION determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the COMMISSION shall issue a CERTIFICATE of Hardship.

7.10 The COMMISSION shall send a copy of its CERTIFICATES and disapprovals to the applicant and shall file a copy of its CERTIFICATES and disapprovals with the office of the Town Clerk and the Building Commissioner. The date of issuance of a CERTIFICATE or disapproval shall be the date of the filing of a copy of such CERTIFICATE or disapproval with the office of the Town Clerk.

7.11 If the COMMISSION should fail to issue a CERTIFICATE or a disapproval within sixty (60) days of the filing of the application for a CERTIFICATE, or within such further time as the applicant may allow in writing, the COMMISSION shall thereupon issue a CERTIFICATE of Hardship Due to Failure to Act.

7.12 Each CERTIFICATE issued by the COMMISSION shall be dated and signed by its chairman or such other person designated by the COMMISSION to sign such CERTIFICATES on its behalf.

7.13 A PERSON AGGRIEVED by a determination of the COMMISSION may, within twenty (20) days of the issuance of a CERTIFICATE or disapproval, file a written request with the COMMISSION for a review by a person or persons of competence and experience in such matters, acting as arbitrator and designated by the Metropolitan Area Planning Council. The finding of the person or persons making such review shall be filed with the Town Clerk within forty-five (45) days after the request, and shall be binding on the applicant and the COMMISSION, unless a further appeal is sought in the Superior Court as provided in Chapter 4OC, Section 12A. The filing of such further appeal shall occur within twenty (20) days after the finding of the arbitrator has been filed with the office of the Town Clerk.

8. Criteria for Determinations

8.1 In deliberating on applications for CERTIFICATES, the COMMISSION shall consider, among other things, the historic and architectural value and significance of the site, BUILDING or STRUCTURE; the general design, proportions, detailing, mass, arrangement, texture, and material of the EXTERIOR ARCHITECTURAL FEATURES involved; and the relation of such EXTERIOR ARCHITECTURAL FEATURES to similar features of BUILDINGS and STRUCTURES in the surrounding area.

8.2 In the case of new CONSTRUCTION or additions to existing BUILDINGS or STRUCTURES, the COMMISSION shall consider the appropriateness of the scale, shape and proportions of the BUILDING or STRUCTURE both in relation to the land area upon which the BUILDING or STRUCTURE is situated and in relation to BUILDINGS and STRUCTURES in the vicinity. The COMMISSION may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or by-law.

8.3 When ruling on applications for CERTIFICATES on solar energy systems as defined in Section 1A of Chapter 40A, the COMMISSION shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.

8.4 The COMMISSION shall not consider interior arrangements or architectural features not subject to public view from a public way.

9. Exclusions

9.1 The COMMISSION shall exclude from its purview the following:

9.1.1 Temporary BUILDINGS, STRUCTURES or SIGNS subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the COMMISSION may reasonably specify.

9.1.2 Terraces, walks, driveways, sidewalks and similar STRUCTURES, provided that any such STRUCTURE is substantially at grade level.

9.1.3 Storm windows and doors, screen windows and doors, and window air conditioners.

9.1.4 The color of paint.

9.1.5 The color of materials used on roofs.

9.1.6 Signs of not more than two (2) square feet in DISPLAY AREA in-connection with use of a residence for a customary home occupation or for professional purposes, provided only one such sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one sign in connection with the nonresidential use of each BUILDING or STRUCTURE which is not more than six (6) square feet in DISPLAY AREA, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.

9.1.7 The reconstruction, substantially similar in exterior design, of a BUILDING, STRUCTURE or EXTERIOR ARCHITECTURAL FEATURE damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.

9.2 Upon request the COMMISSION shall issue a CERTIFICATE of Non-Applicability with respect to CONSTRUCTION or ALTERATION in any category not subject to review by the COMMISSION in accordance with the above provisions.

9.3 Nothing in this By-law shall be construed to prevent the ordinary maintenance, repair or replacement of any EXTERIOR ARCHITECTURAL FEATURE within a DISTRICT which does not involve a change in design, material or the outward appearance thereof, nor to prevent landscaping with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any CONSTRUCTION or ALTERATION under a permit duly issued prior to the effective date of this By-law.

10. Categorical Approval

The COMMISSION may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Needham, that certain categories of EXTERIOR ARCHITECTURAL FEATURES, STRUCTURES or BUILDINGS under certain conditions may be CONSTRUCTED or ALTERED without review by the COMMISSION without causing substantial derogation from the intent and purpose of this By-law.

11. Enforcement and Penalties

11.1 The COMMISSION shall determine whether a particular activity is in violation of this By-law or not, and the COMMISSION shall be charged with the enforcement of this By-law.

11.2 The COMMISSION, upon a written complaint of any resident of Needham, or owner of property within Needham, or upon its own initiative, may seek to institute any appropriate action or proceedings in the name of the Town of Needham to prevent, correct, restrain or abate violation of this By-law. In the case where the COMMISSION is requested in writing to enforce this By-law against any person allegedly in violation of same and the COMMISSION declines to act, the COMMISSION shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefore, within twenty one (21) days of receipt of such request.

11.3 Whoever violates any of the provisions of this By-law shall be punishable by a fine of up to \$300.00 for each offense. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

11.4 The COMMISSION may designate the Building Commissioner of the Town of Needham to act on its behalf and to enforce this By-law under the direction of the COMMISSION.

12. Validity and Separability

The provisions of this By-law shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this By-law shall continue to be in full force and effect.

13. Appendices

Appendix 1: Jonathan Kingsbury House Local Historic District

The Jonathan Kingsbury House Local Historic District shall be a DISTRICT area under this By-law. The location and boundaries of the Jonathan Kingsbury House Local Historic District are defined and shown on the Local Historic District Map of the Town of Needham, Sheet 1-2024 which is a part of this By-law. Sheet 1 is based on the 2023 Assessor's Map. The delineation of the DISTRICT area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Local Historic District Map of the Town of Needham, Sheet 1-2024:

Recorded in the office of the Needham Town Clerk.

Digital Images

Historic photographs courtesy of Maurice and Elizabeth Handel

Circa 1880



Circa 1911



Circa 1940



Circa 1987



Circa 1990



Contemporary photographs courtesy of Alison Borrelli, dated September 4th 2023.









City of Newton **Legal Notice**

Tuesday, September 26, 2023

A Public Hearing will be continued on Tuesday, September 26, 2023, at 7:00PM in City Council Chambers (Room 207), Newton City Hall, 1000 Commonwealth Avenue, Newton, MA, before the PLANNING AND DEVELOPMENT BOARD AND THE ZONING & PLANNING COMMITTEE of the Newton City Council for the purpose of hearing the following petition at which time all parties interested in this item shall be heard. Notice will be published Tuesday, September 12, 2023, and Tuesday, September 19, 2023 in The Boston Herald, with a copy posted online and in a conspicuous place at Newton City Hall.

Please Note: This is a hybrid meeting that the public may access in-person or virtually via Zoom with the following link: <https://newtonma.gov.zoom.us/j/81163950629>, or call 1-646-558-8656 and use the Meeting ID: 811 6395 0629. The final agenda will be posted online on Friday, September 22, 2023 at: <https://www.newtonma.gov/government/city-clerk/city-council/friday-packet>. Please call the Clerk's Office at 617-796-1210 for more information.

Copies of the proposed changes, maps, and accompanying materials are available at the City Clerk's office or can be found online at <https://www.newtonma.gov/government/city-clerk/city-council/council-standing-committees/zoning-planning-committee>

#38-22 Request for discussion and amendments to the Zoning Ordinance and Zoning Map regarding village center districts

ZONING & PLANNING COMMITTEE requesting review, discussion and amendments relative to Chapter 30 zoning ordinances by adding a new Village Center Overlay District, consisting of four (4) district tiers, by establishing requirements for such District, and requesting amendments to the Zoning Map to include the Village Center Overlay District, and requesting amendments to the Zoning Map to include the Village Center Overlay District.



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

September 14, 2023

Christopher H. Heep, Esq.
Town Counsel, Town of Needham
Miyares and Harrington, LLP
40 Grove Street, Suite 190
Wellesley, MA 02482

**Re: Extension of 90-day review period of Article 18
Needham Annual Town Meeting of May 1, 2023
Case # 11094**

Dear Attorney Heep:

Pursuant to the requirements of G.L. c. 40, § 32 the Attorney General and Town Counsel are authorized to extend the 90-day period provided for the Attorney General's review of town by-laws for not more than an additional 90 days. This letter serves to satisfy the requirements of G.L. c. 40, § 32. In light of our need for time to further discuss the proposed by-law's consistency with state law, we hereby jointly agree to extend the Attorney General's review period of Article 18 for an additional 60 days. Our decision on Article 18 will now be due **November 17, 2023**.

Please sign this letter to reflect your agreement and return the signed letter to us. We will then file the letter with the Town Clerk, with a copy to you. Thank you for your accommodation in this matter.

Very truly yours,
ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600


Town Counsel

9/14/2023
Date



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

September 15, 2023

Theodora K. Eaton, Town Clerk
Town of Needham
1471 Highland Avenue
Needham, MA -2492

Re: Needham Annual Town Meeting of May 1, 2023 -- Case # 11094
Warrant Articles # 18, 19, and 20 (Zoning)
Warrant Articles # 39 (General)

Dear Ms. Eaton:

Articles 19, 20, and 39 - We approve Articles 19, 20, and 39 from the May 1, 2023 Needham Annual Town Meeting.

Article 18 - The Attorney General's deadline for a decision on Article 18 is extended for an additional 60 days under the authority conferred by G.L. c. 40, § 32. The agreement with Town Counsel for a 60-day extension is attached. We will issue our decision on Article 18 on or before **November 17, 2023**.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) **general** by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) **zoning** by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli. E. Gunagan
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Christopher H. Heep