

NEEDHAM PLANNING BOARD

Tuesday February 25, 2025

7:00 p.m.

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. Discussion and Vote to submit to the Select Board Zoning By-Law and Zoning map change to Floodplain district.
2. Minutes.
3. Report from Planning Director and Board members.
4. Correspondence.

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



Federal Emergency Management Agency

Washington, D.C. 20472

RECEIVED
TOWN OF NEEDHAM
SELECT BOARD
2025 JAN 14 P 12:54

cc: SB
CAMP
Katie
Dave
→ KP

January 08, 2025

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P

Chairperson Kevin Keane
Chair, Town of Needham Selectboard
Town Hall
1471 Highland Avenue
Needham, MA 02492

Community Name: Town of Needham,
Norfolk County,
MA
Community No.: 255215
Map Panels See FIRM Index
Affected:

Dear Kevin Keane:

This is to notify you of the final flood hazard determination for Norfolk County, Massachusetts (All Jurisdictions), in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood hazards shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

The statutory 90-day appeal period that was initiated for your community when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for your community in the local newspaper has elapsed.

FEMA did not receive any appeals of the proposed flood hazard determinations or submittals regarding the Revised Preliminary Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) during that time.

Accordingly, the flood hazard determinations for your community are considered final. The final notice for flood hazard determinations will be published in the *Federal Register* as soon as possible. The FIS report and FIRM for your community will become effective on July 08, 2025. Before the effective date, we will send your community final printed copies of the FIS report and FIRM. For insurance purposes, the community number and new suffix code for the panels being revised are indicated on the FIRM and must be used for all new policies and renewals.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3 (c) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document.



Federal Emergency Management Agency

Washington, D.C. 20472

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TOWN OF NEEDHAM
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cc: SB
Carmy
Katie
Dave
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Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3 (c) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document.

This includes adoption of the current effective FIS report and FIRM to which the regulations apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions in this Paragraph of the NFIP regulations:

1. Amending existing regulations to incorporate any additional requirements of 44 CFR Part 60.3 (c);
2. Adopting all the standards of 44 CFR Part 60.3 (c) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of 44 CFR Part 60.3 (c).

Also, prior to the effective date, your community is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of the floodplain management regulations that meet the standards of 44 CFR Part 60.3 (c) of the NFIP regulations by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

Many states and communities have adopted building codes based on the International Codes (I-Codes); the model I-Codes (2009 and more recent editions) contain flood provisions that either meet or exceed the minimum requirements of the NFIP for buildings and structures. The model codes also contain provisions, currently found in an appendix to the International Building Code, that apply to other types of development and NFIP requirements. In these cases, communities should request review by the NFIP State Coordinator to ensure that local floodplain management regulations are coordinated (not duplicative or inconsistent) with the State or Local building code. FEMA's resource, *Reducing Flood Losses through the International Code: Coordinating Building Codes and Floodplain Management Regulations, 5th Edition (2019)*, provides some guidance on this subject and is available at <https://www.fema.gov/emergency-managers/risk-management/building-science/building-codes/flood>.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24.

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letters of Map Change (LOMC) actions (i.e., Letters of Map Amendment, Letters of Map Revision) that will be affected when the revised FIRM panels referenced above become effective. If no LOMCs were issued previously for your community, you are receiving a SOMA for informational purposes only.

Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided for use in a computer mapping system. These

files can be used in conjunction with other thematic data for floodplain management purposes, insurance requirements, and many other planning applications. Copies of the digital files of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or by visiting the Map Service Center at <https://www.msc.fema.gov>. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

For assistance with your floodplain management ordinance or enacting the floodplain management regulations, please contact Joy Duperault, NFIP State Coordinator for Massachusetts, by telephone at (857) 286-0326 or by email at joy.duperault@mass.gov. If you should require any additional information, we suggest that you contact the Director, Risk Analysis Branch of FEMA, Region I at (617) 956-7576 or kerry.bogdan@fema.dhs.gov for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the telephone number shown above. Additional information and resources you may find helpful regarding the NFIP and floodplain management can be found on our website at <https://www.fema.gov/flood-maps>. Copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis Rodriguez, P.E.
Engineering and Modeling Division
Risk Management Directorate | Resilience

Enclosure:
Final SOMA

cc: Community Map Repository
Thomas Ryder, Town Engineer, Town of Needham

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

Community No: 255215

To assist your community in maintaining the Flood Insurance Rate Map (FIRM), we have summarized below the effects of the enclosed revised FIRM panels(s) on previously issued Letter of Map Change (LOMC) actions (i.e., Letters of Map Revision (LOMRs), Letter of Map Revision based on Fill (LOMR-Fs), and Letters of Map Amendment (LOMAs)) that will be affected when the revised FIRM becomes effective on July 8, 2025.

1. LOMCs Incorporated

The modifications effected by the LOMCs listed below will be reflected on the revised FIRM. In addition, these LOMCs will remain in effect until the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

2. LOMCs Not Incorporated

The modifications effected by the LOMCs listed below will not be reflected on the revised FIRM panels or will not be reflected on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lot(s) or structure(s) involved were outside the Special Flood Hazard Area, as shown on the FIRM. These LOMCs will remain in effect until the revised FIRM becomes effective. These LOMCs will be revalidated free of charge 1 day after the revised FIRM becomes effective through a single revalidation letter that reaffirms the validity of the previous LOMCs.

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

Community No: 255215

2A. LOMCs on Revised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	00-01-1006A	11/30/2000	554 CENTRAL AVENUE	2552150002C	25021C0036F
LOMA	09-01-1318A	09/22/2009	TAX MAP 74, LOT 9 -- 13 HIGHLAND CIRCLE	2552150002C	25021C0037F
LOMA	12-01-2126A	08/14/2012	THE CHARLES COURT EAST CONDOMINIUM -- 1212 GREENDALE AVENUE	25021C0039E	25021C0039F
LOMA	13-01-0012A	10/18/2012	LOT 17A -- 190 EDGEWATER DRIVE	25021C0038E	25021C0038F
LOMA	13-01-0076A	10/16/2012	Lot 31 - 65 Mary Chilton Road	25021C0017E	25021C0017F
LOMA	12-01-2469A	11/01/2012	LOT 32 -- 57 MARY CHILTON ROAD	25021C0017E	25021C0017F
LOMA	13-01-0233A	11/07/2012	Lot 30 - 69 Mary Chilton Road	25021C0017E	25021C0017F
LOMA	13-01-0331A	11/20/2012	LOT 3 -- 30 EDGEWATER DRIVE	25021C0038E	25021C0038F
LOMA	13-01-0321A	12/13/2012	LOT 3 -- 231-233 WEST STREET	25021C0036E	25021C0036F
LOMA	13-01-2006A	06/12/2013	LOT 11 -- 115/117 BOOTH STREET	25021C0036E	25021C0036F
LOMA	13-01-2953A	10/22/2013	LOT 2 -- 21 HIGHLAND AVENUE	25021C0037E	25021C0037F
LOMA	14-01-1868A	05/15/2014	LOT 7A - 144 BROOKSIDE ROAD	25021C0017E	25021C0017F
LOMA	14-01-3202A	10/09/2014	67 Cynthia Road	25021C0036E	25021C0036F
LOMA	15-01-1367A	04/28/2015	LOT 6 -- 120 BROOKSIDE ROAD	25021C0017E	25021C0017F
LOMA	16-01-1100A	05/24/2016	559, 567, 573, & 585 CENTRAL AVENUE	25021C0036E	25021C0036F
LOMA	17-01-1392A	05/16/2017	CARMELO FRAZETTIE PLAN, LOT 1 -- 371 WEST STREET	25021C0036E	25021C0036F

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

Community No: 255215

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
LOMA	17-01-2141A	08/22/2017	LOTS 11 & 12 -- 564 CENTRAL AVENUE	25021C0036E	25021C0036F
LOMA	20-01-0358A	02/14/2020	FREMONT PARK, LOTS 28-29 -- 30 CHARLES STREET	25021C0036E	25021C0036F
LOMA	20-01-0600A	02/14/2020	77 Mary Chilton Road	25021C0017E	25021C0017F
LOMA	21-01-0159A	12/10/2020	LOT 8 -- 63 CYNTHIA ROAD	25021C0036E	25021C0036F
LOMA	21-01-1201A	08/02/2021	LOT 6 -- 73 CYNTHIA ROAD	25021C0036E	25021C0036F

2B. LOMCs on Unrevised Panels

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

3. LOMCs Superseded

The modifications effected by the LOMCs listed below have not been reflected on the Final revised FIRM panels because they are being superseded by new or revised flood hazard information or the information available was not sufficient to make a determination. The reason each is being superseded is noted below. These LOMCs will no longer be in effect when the revised FIRM becomes effective.

LOMC	Case No.	Date Issued	Project Identifier	Reason Determination Will be Superseded
			NO CASES RECORDED	

1. Insufficient information available to make a determination.
2. Lowest Adjacent Grade and Lowest Finished Floor are below the proposed Base Flood Elevation.
3. Lowest Ground Elevation is below the proposed Base Flood Elevation.
4. Revised hydrologic and hydraulic analyses.
5. Revised topographic information.
6. Superseded by another LOMC.

FINAL SUMMARY OF MAP ACTIONS

Community: NEEDHAM, TOWN OF

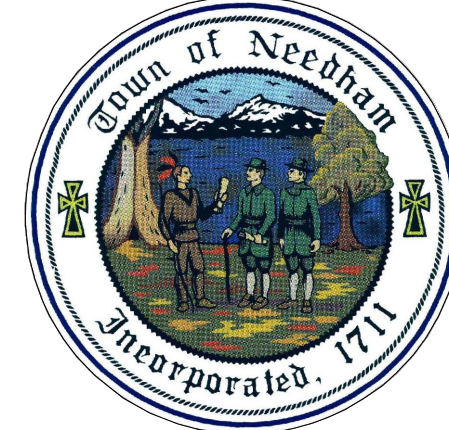
Community No: 255215

4. LOMCs To Be Redetermined

The LOMCs in Category 2 above will be revalidated through a single revalidation letter that reaffirms the validity of the determination in the previously issued LOMC. For LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures is no longer valid, the LOMC cannot be revalidated through this administrative process. Therefore, we will review the data previously submitted for the LOMC requests listed below and if appropriate issue a new determination for the affected properties after the effective date of the revised FIRM.

LOMC	Case No.	Date Issued	Project Identifier	Original Panel	Current Panel
			NO CASES RECORDED		

***TOWN OF
NEEDHAM
MASSACHUSETTS
2012-2025 FEMA
FLOOD PLAIN
COMPARISON***



DRAFT

SRE

SRE

TOTAL ACREAGE

1,070.41± Acres

2012 FEDERAL FEMA
FLOOD PLAIN BOUNDAR

1,193.13± Acres

2023 FEDERAL FEMA
FLOOD PLAIN BOUNDAR

85 Elevation

ARTICLE 26 MAY 6, 201

USE DISTR



SINGLE RESIDENCE

SINGLE RESIDENCE

OVERLAY DISTRIBUTION



FEDERAL - FLOOD PLAIN BOUNDARY (FEMA) JULY 17, 2012

(ALL ELEVATIONS REFER TO U.S.G.S MEAN SEA LEVEL DATUM)



FEDERAL - FLOOD PLAIN BOUNDARY (FEMA) Revised Preliminary APRIL 7, 2023
(ALL ELEVATIONS REFER TO U.S. C.S. MEAN SEA LEVEL DATUM)

(ALL ELEVATIONS RELATIVE TO DATUM MEAN SEA LEVEL DATUM)

BOUNDARY for ARTICLE 26 of MAY 6

SR

SRI

SR

CD

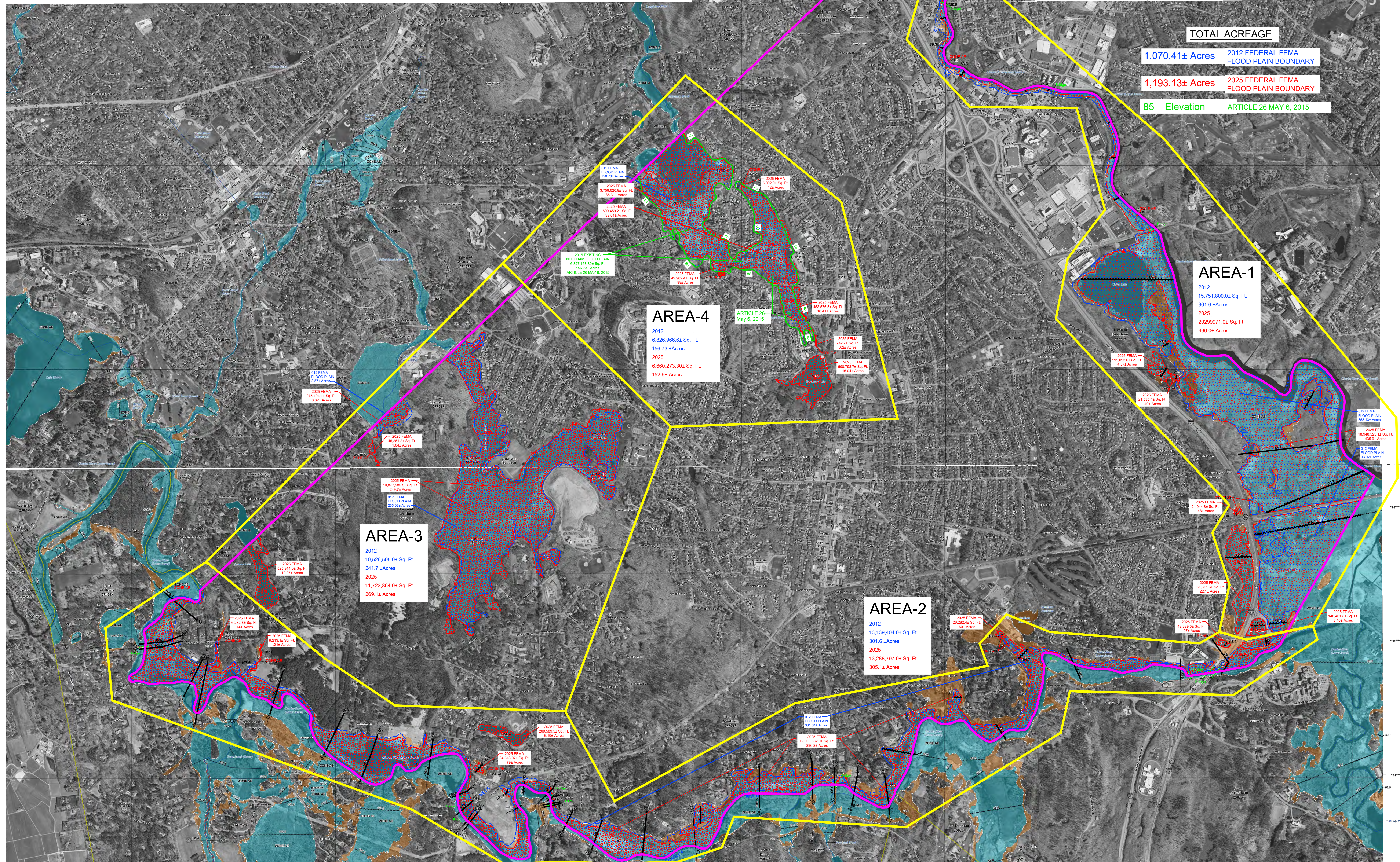
CD

NO

Zoning information was constructed from articles provided by the Town of Needham Planning Board. All data is for display purposes only and should not be considered accurate, current or complete. The Town of Needham assumes no liability for misuse or alteration of this data. This road map portrays roads that have been constructed and are in general use for vehicular traffic. Road data was updated based on April 2009 aerial photographs and includes data from the Town of Needham Department of Public Works and Engineering Division.

2012-2025 FEMA SQUARE FOOTAGE COMPARISON

DRAFT
Scale 1" = 1000 Ft



ARTICLE 1: **AMEND ZONING BY-LAW – FLOOD PLAIN DISTRICT**

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

1. Delete Section 2.3.1 in its entirety and replace it with the following:

2.3.1

All special flood hazard areas within the Town of Needham designated as Zone A, AE, or AH on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Needham are panel numbers 25021C0016F, 25021C0017F, 25021C0019F, 25021C0028F, 25021C0036F, 25021C0037F, 25021C0038F and 25021C0039F dated July 8, 2025. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 8, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Division.

2. Delete Section 3.3 Uses in the Flood Plain District in its entirety and replace it with the following:

3.3 Uses in the Flood Plain District

The purpose of the Flood Plain District is to:

- (a) Protect the streams, rivers, and other watercourses in the Town and their adjoining lands;
- (b) Protect the health and safety of persons and property against the hazards of flooding;
- (c) Preserve and maintain the ground water table for water supply purposes;
- (d) Protect the community against detrimental use and development of lands adjoining such water courses;
- (e) Conserve the watershed areas of the Town for the health, safety, welfare of the public;
- (f) Preserve the balance of the components of the ecosystem of the watercourses and adjoining land;
- (g) Ensure public safety through reducing the threats to life and personal injury;
- (h) Eliminate new hazards to emergency response officials;
- (i) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- (j) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- (k) Eliminate costs associated with the response and cleanup of flooding Conditions; and
- (l) Reduce damage to public and private property resulting from flooding waters.

The Flood Plain District shall be considered as overlying other use districts established by this By-Law. Within the Flood Plain District, the requirements of the underlying district continue to apply insofar as they comply with the provisions of this section. In the event there is a conflict or difference between the provisions of the overlying and underlying district the more restrictive shall apply. Compliance with these provisions shall not be construed as satisfying the provisions of Massachusetts General Laws Chapter 131. The flood plain management regulations found in this Flood Plain District section shall take precedence over any less restrictive conflicting local laws, rules or regulations.

3. Insert a new Section 3.3.1 to read as follows:

3.3.1 Designation of Town Floodplain Administrator

The Town hereby designates the position of Town Engineer to be the official floodplain administrator of the Town.

4. Insert a new Section 3.3.2 to read as follows:

3.3.2 Definitions Applicable in Flood Plain District

The following definitions shall be applicable in the Flood Plain District.

Development – means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Floodway – the channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally Dependent Use – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure – means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

New Construction – Structures for which the start of construction commenced on or after the effective date of the first flood plain management bylaw adopted by the Town, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.*

Recreational Vehicle – means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area – the land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30.

Start of Construction – the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural¹² part of a building, whether or not that alteration affects the external dimensions of the building.

Structure – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Repair of a Foundation – when work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

Variance – means a grant of relief by the Town from the terms of a flood plain management regulation.

Violation – means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in US Code of

Federal Regulations, Title 44, §60.3 is presumed to be in violation until such time as that documentation is provided.

5. Delete Section 3.3.3 Uses Requiring A Special Permit and insert in its place the following:

3.3.3 Special Permit Required for all Proposed Development in Flood Plain District

A special permit from the Board of Appeals is required for:

- (a) All proposed construction or other development in the Flood Plain District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
 - (b) Any driveway and walkway ancillary to uses otherwise permitted by this section.
 - (c) Tennis courts or other uses requiring a similarly prepared surface.
 - (d) Water and sewer pumping stations.
 - (e) Any use not expressly permitted or prohibited.
 - (f) Swimming pools, together with structures, walkways, mechanical systems accessory thereto, and fences.
 - (g) Any use permitted in the underlying district in which the land is situated, subject to the same use and development restrictions as may otherwise apply thereto, provided that the land designated as being within the Flood Plain District is found by the Board of Appeals not, in fact, to be subject to flooding. The Board of Appeals shall refer each question on this matter to the Planning Board, Conservation Commission, Board of Health, and Department of Public Works, and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report has been received.
6. Delete the introductory paragraph of Section 3.3.4 Special Permit Criteria and replace it with the following:

The Town's special permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the Flood Plain District. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

In addition, in granting a special permit, the Board of Appeals shall consider, among other factors, the following:

7. Insert in Section 3.3.5 General Provisions Relating to Flood Plain District the following new subsections to read as follows:
- (f) In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial

improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

- (g) In A Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.
- (h) If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation

- NFIP Program Specialist
Federal Emergency Management Agency, Region I

- (i) The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to any variance, and will maintain this record in its files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a Town official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the Flood Plain District.

8. Delete Section 3.3.6(c) and insert in its place the following:

- (c) In a riverine situation, the Town Engineer shall notify the following of any alteration or relocation of a watercourse:
 - Adjacent Communities, especially upstream and downstream
 - Bordering States, if affected
 - NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor, Boston, MA 02114
 - NFIP Program Specialist
Federal Emergency Management Agency, Region I

9. Insert new Section 3.3.7 to read as follows:

3.3.7 Variances

A variance from this Flood Plain District Bylaw must meet all requirements set out by Massachusetts law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

10. Insert a new Section 3.3.8. to read as follows:

3.3.8 Disclaimer

The degree of flood protection required by this Bylaw is considered reasonable but does not imply total flood protection.

11. Re-number all sections within Section 3.3 in appropriate numerical order to account for the insertion of new Sections 3.3.1 and 3.3.2 as provided for above.

or take any other action relative thereto.

INSERTED BY:

FINANCE COMMITTEE RECOMMENDS:

ARTICLE 2: AMEND ZONING BY-LAW – MAP CHANGE TO FLOOD PLAIN DISTRICT

To see if the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map to revise the boundaries of the Flood Plain District so that the District now comprises the following:

- (a) All special flood hazard areas within the Town of Needham designated as Zone A, AE, or AH on the Norfolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Norfolk County FIRM that are wholly or partially within the Town of Needham are panel numbers 25021C0016F, 25021C0017F, 25021C0018F, 25021C0019F, 25021C0028F, 25021C0036F, 25021C0037F, 25021C0038F, and 25021C0039F dated July 8, 2025. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 8, 2025.
- (b) All that land along or sloping toward that portion of Rosemary Brook between Rosemary Lake and Central Avenue that is at or below the following elevations: (i) Ninety (90) feet above mean sea level upstream of West Street; and (ii) Eighty-eight (88) feet above mean sea level between West Street and Central Avenue.
- (c) All that land along or sloping toward that portion of Rosemary Brook between Central Avenue and the Needham-Wellesley town line that is at or below an elevation of eighty-five (85) feet above mean sea level.

Or take any other action relative thereto.

INSERTED BY: Planning Board

FINANCE COMMITTEE RECOMMENDS:

Article Information: This article describes the geographical boundary of the Town's flood plain zoning district as it will be reflected on a revised zoning map. Said area comprises the geographical area that the Federal Emergency Management Agency (FEMA) has defined as having a 1% chance of flooding in a given year. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the Norfolk County Flood Insurance Rate Map (FIRM) and further defined by the Norfolk County Flood Insurance Study (FIS) report dated July 8, 2025.

3.2 Uses in Flood Plain District

The purpose of the Flood Plain District is to:

- (a) Protect the streams, rivers, and other watercourses in the Town and their adjoining lands;
- (b) Protect the health and safety of persons and property against the hazards of flooding;
- (c) Preserve and maintain the ground water table for water supply purposes;
- (d) Protect the community against detrimental use and development of lands adjoining such water courses;
- (e) Conserve the watershed areas of the Town for the health, safety, welfare of the public;
- (f) Preserve the balance of the components of the ecosystem of the watercourses and adjoining land;
- (g) Ensure public safety through reducing the threats to life and personal injury;
- (h) Eliminate new hazards to emergency response officials;
- (i) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
- (j) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
- (k) Eliminate costs associated with the response and cleanup of flooding Conditions; and
- (l) Reduce damage to public and private property resulting from flooding waters.

The Flood Plain District shall be considered as overlying other use districts established by this By-Law. Within the Flood Plain District, the requirements of the underlying district continue to apply insofar as they comply with the provisions of this section. In the event there is a conflict or difference between the provisions of the overlying and underlying district the more restrictive shall apply. Compliance with these provisions shall not be construed as satisfying the provisions of Massachusetts General Laws Chapter 131. The flood plain management regulations found in this Flood Plain District section shall take precedence over any less restrictive conflicting local laws, rules or regulations.

3.3.1 Designation of Town Floodplain Administrator

The Town hereby designates the position of Town Engineer to be the official floodplain administrator of the Town.

3.3.2 Definitions Applicable in Flood Plain District

The following definitions shall be applicable in the Flood Plain District.

Development – means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Floodway – the channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally Dependent Use – means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest Adjacent Grade – means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure – means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior
or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

New Construction – Structures for which the start of construction commenced on or after the effective date of the first flood plain management bylaw adopted by the Town, including any subsequent improvements to such structures. *New construction includes work determined to be substantial improvement.*

Recreational Vehicle – means a vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area – the land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO, VE or V1-30.

Start of Construction – the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural¹² part of a building, whether or not that alteration affects the external dimensions of the building.

ral¹² part of a building, whether or not that alteration affects the external dimensions of the building.

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Structure – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Repair of a Foundation – when work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

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Variance – means a grant of relief by the Town from the terms of a flood plain management regulation.

Violation – means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in US Code of Federal Regulations, Title 44, §60.3 is presumed to be in violation until such time as that documentation is provided.

3.3.3 Prohibited Uses

The following uses are prohibited, regardless of other requirements:

- (a) Manufacture, use, transport, storage or disposal of toxic or hazardous materials.
- (b) Sanitary landfill; junkyard; salvage yard; and other solid waste disposal.
- (c) Encroachments including fill, replacement of soil with impervious material, new construction, substantial improvements (the cost of which exceeds 50 percent of the market value of the structure), or other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels in the Town during the occurrence of a 100-year flood.

3.3.4 Permitted Uses

- (a) Uses directly related to the conservation of water, plants, and wildlife.
- (b) Outdoor recreation activities and facilities, including unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted which do not require removal or transfer of earth.
- (c) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any watercourse.
- (d) Grazing and farming, including truck gardening and harvesting of crops.
- (e) Forestry and nurseries.
- (f) Removal from a watercourse of silt and other accumulated debris which tends to interfere with the natural flow patterns of the watercourse.
- (g) Dwellings for sustained human habitation lawfully existing which shall not hereafter be enlarged or extended to increase ground coverage.

3.3.5 Special Permit Required for all Proposed Development in Flood Plain District

A special permit from the Board of Appeals is required for:

- (a) All proposed construction or other development in the Flood Plain District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
- (b) Any driveway and walkway ancillary to uses otherwise permitted by this section.

- (c) Tennis courts or other uses requiring a similarly prepared surface.
- (d) Water and sewer pumping stations.
- (e) Any use not expressly permitted or prohibited.
- (f) Swimming pools, together with structures, walkways, mechanical systems accessory thereto, and fences.
- (g) Any use permitted in the underlying district in which the land is situated, subject to the same use and development restrictions as may otherwise apply thereto, provided that the land designated as being within the Flood Plain District is found by the Board of Appeals not, in fact, to be subject to flooding. The Board of Appeals shall refer each question on this matter to the Planning Board, Conservation Commission, Board of Health, and Department of Public Works, and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report has been received.

3.3.6 Special Permit Criteria

The Town's special permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development in the Flood Plain District. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

In addition, in granting a special permit, the Board of Appeals shall consider, among other factors, the following:

- (a) Geographic location of proposed building and security of driveway or walkway access during flooding.
- (b) Foundation elevations of proposed building and security of foundation during flooding, including assurance that foundations would not be undermined and that the proposed building would not be floated off, swept away, or battered during flooding.
- (c) Disposal of sewage from the proposed building and containment of sewage during flooding.
- (d) Safety of water, sewage, gas, electric and fuel utilities from breaking, igniting, electrocution or other dangers during flooding.
- (e) Soil structure and the general character of development in the neighborhood.
- (f) The preservation of the natural water channel passage of flood flows.
- (g) The retention of existing flood water storage capacity.

3.3.7 General Provisions Relating to Flood Plain District

- (a) All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following: (i) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR); (ii) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00); (iii) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and (iv) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5). Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
- (b) All subdivision proposals in the Flood Plain District shall be reviewed to assure that: (i) such proposals minimize flood damage; (ii) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and (iii) adequate drainage is provided to reduce exposure to flood hazards.
- (c) Base flood elevation data shall be provided for subdivision proposals or other developments of greater than 50 lots or 5 acres, within unnumbered A zones, as shown on the Norfolk County Flood Insurance Rate Map (FIRM) dated July 17, 2012.
- (d) Within areas designated Zone A, AH, and AE, along watercourses that have not had a regulatory floodway designated, as shown on the Norfolk County Flood Insurance Rate Map (FIRM), Floodway Map, and Flood Insurance Study, dated July 17, 2012, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (e) Within Zone AH on the FIRM, adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
- (f) In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.
- (g) In A Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

- (h) If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
 - NFIP Program Specialist
Federal Emergency Management Agency, Region I
- (i) The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to any variance, and will maintain this record in its files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a Town official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the Flood Plain District.

3.3.8 National Flood Insurance Program (NFIP) Requirements

Reference is hereby made to the Norfolk County Flood Insurance Rate Map (FIRM) and Flood Insurance Study dated July 17, 2012 – both of which are on file in the office of the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department. In granting special permits authorized above under Subsections 3.3.3 and 3.3.4, the Board of Appeals shall, as appropriate, require the following as conditions of approval:

- (a) Require that new and replacement water supply and sanitary sewerage systems be designed to minimize or eliminate infiltration of flood waters into said systems, as well as discharges from said systems into flood waters;
- (b) Require that new adequate drainage is provided to reduce exposure to flood hazards in flood-prone areas, and more specifically, require adequate drainage around proposed structures on slopes to guide flood waters around and away from such structures; and
- (c) In a riverine situation, the Town Engineer shall notify the following of any alteration or relocation of a watercourse:
- Adjacent Communities, especially upstream and downstream
 - Bordering States, if affected
 - NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor, Boston, MA 02114
 - NFIP Program Specialist
Federal Emergency Management Agency, Region I

3.3.9 Variances

A variance from this Flood Plain District Bylaw must meet all requirements set out by Massachusetts law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

3.3.10 Disclaimer

The degree of flood protection required by this Bylaw is considered reasonable but does not imply total flood protection.

3.2 Uses in Flood Plain District

~~_____The purpose of the Flood Plain District is to protect the streams, rivers, and other watercourses in the Town and their adjoining lands; to protect the health and safety of persons and property against the hazards of flooding; to preserve and maintain the ground water table for water supply purposes; to protect the community against detrimental use and development of lands adjoining such water courses; to conserve the watershed areas of the Town for the health, safety, welfare of the public; and to preserve the balance of the components of the ecosystem of the watercourses and adjoining land.~~

~~The Flood Plain District shall be considered as overlying other use districts established by this By-Law. Within the Flood Plain District, the requirements of the underlying district continue to apply insofar as they comply with the provisions of this section. In the event there is a conflict or difference between the provisions of the overlying and underlying district the more restrictive shall apply. Compliance with these provisions shall not be construed as satisfying the provisions of Massachusetts General Laws Chapter 131.~~

The purpose of the Flood Plain District is to:

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- (a) Protect the streams, rivers, and other watercourses in the Town and their adjoining lands;
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- (e) Conserve the watershed areas of the Town for the health, safety, welfare of the public;
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- (g) Ensure public safety through reducing the threats to life and personal injury;
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Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural¹² part of a building, whether or not that alteration affects the external dimensions of the building.
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Violation – means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in US Code of Federal Regulations, Title 44, §60.3 is presumed to be in violation until such time as that documentation is provided.

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3.3.13.3.3 Prohibited Uses

The following uses are prohibited, regardless of other requirements:

- (a) Manufacture, use, transport, storage or disposal of toxic or hazardous materials.
- (b) Sanitary landfill; junkyard; salvage yard; and other solid waste disposal.
- (c) Encroachments including fill, replacement of soil with impervious material, new construction, substantial improvements (the cost of which exceeds 50 percent of the market value of the structure), or other development unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels in the Town during the occurrence of a 100-year flood.

3.3.23.3.4 Permitted Uses

- (a) Uses directly related to the conservation of water, plants, and wildlife.
- (b) Outdoor recreation activities and facilities, including unpaved play areas, nature study, boating, fishing and hunting where otherwise legally permitted which do not require removal or transfer of earth.
- (c) Wildlife management areas, landings, foot, bicycle and/or horse paths and bridges, provided such uses do not affect the natural flow pattern of any watercourse.
- (d) Grazing and farming, including truck gardening and harvesting of crops.
- (e) Forestry and nurseries.

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- (f) Removal from a watercourse of silt and other accumulated debris which tends to interfere with the natural flow patterns of the watercourse.
- (g) Dwellings for sustained human habitation lawfully existing which shall not hereafter be enlarged or extended to increase ground coverage.

3.3.5 Special Permit Required for all Proposed Development in Flood Plain District

A special permit from the Board of Appeals is required for:

- (a) All proposed construction or other development in the Flood Plain District, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.
- (b) Any driveway and walkway ancillary to uses otherwise permitted by this section.
- (c) Tennis courts or other uses requiring a similarly prepared surface.
- (d) Water and sewer pumping stations.
- (e) Any use not expressly permitted or prohibited.
- (f) Swimming pools, together with structures, walkways, mechanical systems accessory thereto, and fences.
- (g) Any use permitted in the underlying district in which the land is situated, subject to the same use and development restrictions as may otherwise apply thereto, provided that the land designated as being within the Flood Plain District is found by the Board of Appeals not, in fact, to be subject to flooding. The Board of Appeals shall refer each question on this matter to the Planning Board, Conservation Commission, Board of Health, and Department of Public Works, and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report has been received.

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3.3.3 Uses Requiring a Special Permit

The Board of Appeals may grant a Special Permit for the following:

- ~~(a) All new construction and substantial improvements (the cost of which exceeds 50 percent of the market value of the structure before the improvements) of residential structures which have the lowest floor, including basement or cellar, elevated to or above the flood plain elevation defined on the Norfolk County Flood Insurance Rate Maps (the 100-year flood plain elevation) and the Town of Needham Zoning Map. No new construction or substantial improvement shall be permitted unless it can be demonstrated~~

by the applicant that the cumulative effect of the proposed development will not increase the water surface elevation of the 100-year flood.

- (b) ~~All new construction and substantial improvements (the cost of which exceeds 50 percent of the market value of the structure before the improvement) of non-residential structures which have the lowest floor, including basement or cellar, elevated to or above the flood plain elevation defined on the Norfolk County Flood Insurance Rate Maps (the 100-year flood elevation) and the Town of Needham Zoning Map or are flood proofed and watertight to the applicable flood elevation. In the case where watertight flood proofing is permitted, a registered professional engineer or architect shall certify to the Building Commissioner that the methods used are adequate to withstand flood depth pressures and velocities impact and the uplift of forces and other factors associated with the 100-year flood. No new construction or substantial improvement shall be permitted unless it is demonstrated by the applicant that the cumulative effect of the proposed development will not increase the water surface elevation of the 100-year flood.~~
- (c) ~~Small non-residential structures of less than 100 square feet of floor area used in connection with recreation or the growing, harvesting, storage, or sale of crops raised on the premises.~~
- (d) ~~Any driveway and walkway ancillary to uses otherwise permitted by this section.~~
- (e) ~~Tennis courts or other uses requiring a similarly prepared surface.~~
- (f) ~~Water and sewer pumping stations.~~
- (g) ~~Any use not expressly permitted or prohibited.~~
- (h) ~~Swimming pools, together with structures, walkways, mechanical systems accessory thereto, and fences.~~
- (i) ~~Any use permitted in the underlying district in which the land is situated, subject to the same use and development restrictions as may otherwise apply thereto, provided that the land designated as being within the Flood Plain District is found by the Board of Appeals not, in fact, to be subject to flooding. The Board of Appeals shall refer each question on this matter to the Planning Board, Conservation Commission, Board of Health, and Department of Public Works, and shall not act until these agencies have reported their recommendations or 45 days have elapsed after such referral and no report has been received.~~

3.3.6 Special Permit Criteria

3.3.4

In granting a special permit, the Board of Appeals shall consider, among other factors, the following:

The Town's special permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the

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proposed development in the Flood Plain District. The proponent must acquire all necessary permits, and must demonstrate that all necessary permits have been acquired.

In addition, in granting a special permit, the Board of Appeals shall consider, among other factors, the following:

- (a) Geographic location of proposed building and security of driveway or walkway access during flooding.
- (b) Foundation elevations of proposed building and security of foundation during flooding, including assurance that foundations would not be undermined and that the proposed building would not be floated off, swept away, or battered during flooding.
- (c) Disposal of sewage from the proposed building and containment of sewage during flooding.
- (d) Safety of water, sewage, gas, electric and fuel utilities from breaking, igniting, electrocution or other dangers during flooding.
- (e) Soil structure and the general character of development in the neighborhood.
- (f) The preservation of the natural water channel passage of flood flows.
- (g) The retention of existing flood water storage capacity.

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3.3.53.3.7 General Provisions Relating to Flood Plain District

- (a) All development in the Flood Plain District, including structural and non-structural activities, whether permitted by right or by special permit shall be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following: (i) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR); (ii) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00); (iii) Inland Wetlands Restriction, DEP (currently 310 CMR 13.00); and (iv) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5). Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.
- (b) All subdivision proposals in the Flood Plain District shall be reviewed to assure that: (i) such proposals minimize flood damage; (ii) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and (iii) adequate drainage is provided to reduce exposure to flood hazards.
- (c) Base flood elevation data shall be provided for subdivision proposals or other developments of greater than 50 lots or 5 acres, within unnumbered A zones, as shown on the Norfolk County Flood Insurance Rate Map (FIRM) dated July 17, 2012.

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~~(d)~~ Within areas designated Zone A, AH, and AE, along watercourses that have not had a regulatory floodway designated, as shown on the Norfolk County Flood Insurance Rate Map (FIRM), Floodway Map, and Flood Insurance Study, dated July 17, 2012, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(d)

~~(e)~~ Within Zone AH on the FIRM, adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

(f) In A Zones, in the absence of FEMA BFE data and floodway data, the Building Department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

(g) In A Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

(h) If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s). Notification shall be submitted to:

• NFIP State Coordinator
Massachusetts Department of Conservation and Recreation

• NFIP Program Specialist
Federal Emergency Management Agency, Region I

(i) The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to any variance, and will maintain this record in its files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a Town official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the Flood Plain District.

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reased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the Flood Plain District.

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3.3.63.3.8 National Flood Insurance Program (NFIP) Requirements

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Reference is hereby made to the Norfolk County Flood Insurance Rate Map (FIRM) and Flood Insurance Study dated July 17, 2012 – both of which are on file in the office of the Town Clerk, Planning Board, Building Official, Conservation Commission and Engineering Department. In granting special permits authorized above under Subsections 3.3.3 and 3.3.4, the Board of Appeals shall, as appropriate, require the following as conditions of approval:

(a) Require that new and replacement water supply and sanitary sewerage systems be designed to minimize or eliminate infiltration of flood waters into said systems, as well as discharges from said systems into flood waters;

~~(b)~~ Require that new adequate drainage is provided to reduce exposure to flood hazards in flood-prone areas, and more specifically, require adequate drainage around proposed structures on slopes to guide flood waters around and away from such structures; and

(b)

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~~(c) Require that adjacent communities, the site coordination office and the NFIP State Coordinator at the Massachusetts Department of Conservation and Recreation be notified prior to any alteration or relocation of a water course, and that a copy of such notification be submitted to the Federal Emergency Management Agency (FEMA) Administrator.~~

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(c) In a riverine situation, the Town Engineer shall notify the following of any alteration or relocation of a watercourse:

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- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor, Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I

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3.3.9 Variances

A variance from this Flood Plain District Bylaw must meet all requirements set out by Massachusetts law, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

3.3.10 Disclaimer

The degree of flood protection required by this Bylaw is considered reasonable but does not imply total flood protection.

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Tentative Schedule for Zoning – May Special Town Meeting

Tuesday February 25, 2025 - Finalize language for legal notice

Planning Board to finalize language to include in legal notice

Vote to send language to Select Board

Friday March 7, 2025 – Send legal notice to the newspaper

Tuesday March 11, 2025 – Select Board refer back zoning article to Planning Board

Thursday March 13, 2025 – Post notice with Town Clerk, first run in newspaper

Thursday March 20, 2025 – second run in paper

Thursday March 27, 2025 – Planning Board Hearing date special meeting

Thursday April 3, 2025 – finalize language at Planning Board meeting special meeting

** (assumption that meeting Tuesday of this week would not provide sufficient time to revise any language changes out of hearing, but if it would – we can keep Tues. April 1, 2025)

Wednesday April 9, 2025 (or earlier) – final language for warrant to Myles.

Monday May 12, 2025 – Special Town Meeting date

NEEDHAM PLANNING BOARD MINUTES

January 21, 2025

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 Natasha Espada, Chairman, on Tuesday, January 21, 2025, at 7:00 p.m. with Messrs. Crocker, Block, McCullen and Alpert, Planner, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. Espada noted this is an open meeting that is being held in a remote manner per state guidelines. She reviewed the rules of conduct for all meetings. This meeting includes one public hearing and public comment will be allowed. If any votes are taken at the meeting the vote will be conducted by roll call.

Public Hearing:

7:00 p.m. – Amendment to Major Project Special Permit No. 1997-08: EP 63 Kendrick Realty, LLC, c/o Edgewater Properties, LLC, 14 Mica Lane, Suite 202, Wellesley, MA 02481, Petitioner (Property located at 63 Kendrick Street, f/k/a 155 Fourth Avenue, Needham, Massachusetts). Regarding request to make certain revisions to the site and building.

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

VOTED: to waive the reading of the public hearing notice.

Ms. Espada noted the following correspondence for the record: an email from Police Chief John Schlittler, dated 1/17/25, with no issues; an email from Fire Chief Tom Conroy, dated 1/17/25, noting approval and an email from Assistant Public Health Director Tara Gurge, dated 1/17/25, with comments. She noted the Building Commissioner reviewed, agrees with Attorney George Giunta Jr and has no additional comments. Engineering had a comment that the applicant has agreed to prepare an Operation and Maintenance Plan for Storm Water. Attorney George Giunta Jr., representative for the applicant, noted this is an amendment to the special permit. This building is at the corner of Kendrick Street and Fourth Avenue. It is Parcel 6 and is in the New England Business Center. The property is 261,361 square feet with 372.99 feet of frontage on Kendrick Street and 739 feet of frontage on Fourth Avenue. The property is fully developed. The existing commercial building was rehabbed in 1997.

George Giunta Jr., representative for the applicant, noted the existing building is 105,900 square feet. It is mostly one story with a 2-story section in the back opposite Kendrick Street. The setback is 19.6 feet from the left side line, so it is non-conforming. There was no sideline setback in 1997 in the New England Business Center. This was fully lawful and conforming. He noted there is no work being done on that side of the building. A special permit to alter a non-conforming structure is needed. There are 2 existing parking areas – one large to the rear off Fourth Avenue and a small one in front accessed from Kendrick Street. The shell is being left intact. Two additions will be added. A small one to the front and a small one to the rear. This will provide a new entry or vestibule area for better access. The address was Fourth Avenue but the property has both legal addresses with Kendrick more prominent. It will now be designated as 63 Kendrick Street. He noted the front refers to Kendrick Street. The existing loading area in the right rear is being reconfigured to allow better loading. There will be a trash compactor and trash removal.

Mr. Giunta Jr. noted there is currently an existing open courtyard in the middle of the building. That will be enclosed and made a part of the interior space of the building. A new loading dock is being added to the left rear corner on the opposite side from Fourth Avenue. The 2-story section and another portion will be renovated to be open to the ceiling. The exterior will be upgraded and renovated all around. Landscaping and parking will be upgraded and the front will be altered a little with a patio area going in. He called out a couple of non-conformities such as the side setback and the front parking lot located less than 50 feet from the exterior line of Fourth Avenue and Kendrick Street. The location of parking is not changing and the special permit could reduce down a bit. The parking now is to the side or rear. Front parking will no

longer be allowed. The landscape open space new requirement on site is 25%. They currently have 19.8% open space and this has been increased to 19.9%. A special permit will be needed. He noted there was no limit in 1997.

Bill Madden, landscape architect with Edgewater Properties, LLC, noted there are 3 elements – renovation of existing landscape, which is in decline, Kendrick entry side and the rear entrance. David Silverman, landscape architect with Edgewater Properties, LLC, noted there are 2 entrances off Kendrick Street that will be removed and one entry will be made with a landscape area. There will be a new loading dock on the north side with the overall net square footage reduced. Mr. Madden noted there will be a formal entry and a series of walls to create a garden for guests composed of 4 benches. There will be handicap parking stalls in front to get into these spaces, a sloped walkway to get up to the entrance of the building and a series of risers for the grade change from the small plaza. The applicant wanted a gesture to the street. The material pallet for the landscape board is formed concrete walls, concrete pavers, hex shaped and a dark gray concrete building. The intention of the garden is for people/tenants to come out and rest and feel separate from vehicular traffic. Trees are being planted that can handle salt and snow.

Mr. Silverman noted the building was last renovated in the mid 90s. It is mostly stucco with a lot of joints and patterns and little pieces of granite inserted. The stucco around the building is being kept. The joints will be cleaned up but it will be kept modern and simple. From the left corner until the 3 hits there is a metal panel that was added to the right. On the right there will be a different color gray for the stucco to break up the long façade. All glass will be replaced. The parking is planted with Bradford pear trees that are in severe decline. They will plant species of red maple to keep the canopy tight. It has been reviewed by the Design Review Board (DRB). Ms. Espada asked what the DRBs biggest concerns were and was informed the amount of lawn in front. Mr. Silverman stated between the windows metal panels are being added to break it up a bit. The bump up of parapets are being moved to simplify. Mr. Madden stated there is an interest in naturalizing the site. The comment from the DRB was a good one. For a visual impact, there will be a series of mulch beds and a lot of maintenance for the conceptual look they like. All parcels are lined by verdant green lawns and there will be a significant amount of new plantings. Mr. Guinta Jr. stated the DRB approved the design as is and made suggestions.

Mr. McCullen had no comments or questions. Mr. Block noted there are 2 trees in front off Kendrick Street right near the building. He could not understand having 2 trees span out. The applicant has shown a lot of intention and he likes the approach. He feels it is an overall improvement to the property and the neighborhood. He asked if the uses are light manufacturing and asked for an example. Mitchell Kassler, Manager of Edgewater Properties, LLC, noted clean technology, robotics, clean energy. Mr. Block asked how much of the space will be devoted to light manufacturing and was informed about one third. Mr. Block stated there is considerable concern in the Heights with the rise in rodent activity. He assumes the applicant will maintain a robust pest control process. Mr. Kassler stated they have a pest contract in place and will continue. He has not noticed any activity in the 5 months of ownership.

Mr. Crocker stated he likes the project but he likes the math to work. The project is eliminating a large open space inside the building and the applicant is saying there is no change in green space. Ms. Espada noted 30 less parking spaces become green space. Mr. Alpert stated the interior space is not green space but open space. Mr. Kassler clarified the courtyard is mostly stamped concrete which is impervious. Mr. Madden noted all sidewalks are gone and being planted green. The other small wedge is being planted along with bits and pieces everywhere. Mr. Alpert stated it was a good presentation and very thorough. Ms. Espada agreed. She especially likes in front of the building where people are able to get in in an easy way. There were no public comments.

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

VOTED: to close the hearing.

Ms. Espada noted there will be a draft decision in 2 weeks.

Transfer of Permit: Major Project Site Plan Special Permit No. 2008-01: Frozen Custard New England, LLC d/b/a Abbotts Frozen Custard, 2 Thoroughbred Lane, Sherborn, Massachusetts 01770, to Frozen Custard Greater Boston One LLC, Petitioner (Property located at 934 Great Plain Avenue, Needham, Massachusetts).

Bill Zeoli, of 382 South Street and Owner, bought the business from the previous owner and wants to continue as is under the conditions of the special permit. There will be no changes or renovations. This is just a paper change of ownership. Ms. Newman has no concerns. The applicant has agreed to abide by the previous decision. She has prepared the paperwork. Mr. Block noted the staff is always great with kids and pets. He wished him the best of success.

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

VOTED: to consent to the requested transfer of the permit with regard to Abbotts Frozen Custard.

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 drafted.

Discussion and Vote to submit an action plan for interim compliance to the Executive Office of Housing and Livable Communities, which shall consist of the Base Compliance Plan.

Discussion and Vote to submit to the Select Board the set of zoning amendments known as the Base Compliance Plan to initiate the process of amending the zoning by-laws in accordance with M.G.L. c. 40A §5.

Ms. Espada noted a letter from the state. She reviewed the process and the Board's purview. The Planning Board put together 2 plans to move forward to Town Meeting. The Base Compliance Plan was accepted. The Neighborhood Plan was accepted with 57% of the vote. There was a referendum and it received enough votes to go to a Town vote. 58% voted to repeal what Town Meeting approved. The Town Manager reached out to the Executive Office of Housing and Livable Communities (EOHLC) to see what the town needed to do. She received an email from Chris Kluchman, Director of Livable Communities Division, dated 1/21/25, noting the EOHLCs emergency regulations that allow additional time for communities to come into compliance. By 2/13/25 the town needs to submit a new action plan and a district compliance application needs to be submitted by 7/14/25. The Board needs to show the steps to be taken to be in compliance by 7/14/25. The town will be in interim compliance if approved by the EOHLC.

Ms. Espada noted the Select Board voted to recommend to go forward with the Base Compliance Plan. She asked if the Board agrees with this and noted there would need to be a vote. When Town Meeting occurs is in the purview of the Select Board and Town Moderator. Ms. Newman's understanding is this will advance at the May Town Meeting. Ms. Espada noted the following correspondence for the record: emails from Laura Dorfman, Joe Matthews, Robert Smart, Joe Leghorn, Mona Steinberg, Margaret Abruzese, Andrea Danneberg, Andrea Okerholm Huttlin, Paul Bennett, Zachary Wallack, Ed Wallack, Jim Van Dyk, Marcus Loveland, Mike Kelly, Donna Meyer, James and Jean Higgins, Catherine Spaulding, Gabi Gutierrez, Riley Hastings, Nathan Levin, Jackie Kiley, Steven Maxwell, Kenneth Buckley, Gary Petrie, David Greenes, Paula Dickerman, Cathy Mertz, Amy Merce, Nicholas Kourtis, Vincent Mastro, Janet Mastro, Victoria Mastro, Lucas Mastro, Janice and Robert Klein, Tracy Rubin, Asher Schachter, Julie Traub and Arthur Cantor, Simon Traub, Noreen McQuade, James Blackwell, Kimberly McCollum, Jane Volden, Oscar Mertz, Ralph Winters, Katie and Jay Doonan, Bruce Wolfeld, Charles Hogan, Richard Epstein, Catherine Hogan, Donna Crescenzi, Dustin and Tiffany Pevear, Eran Hollander, Bill and Kathleen Leahy, Sean Robbins and Ariel deBairos, Cindy Wolfe, Catherine Carroll, Christofer Palasinski, Gary Ajamian, Lynne Collins Stratford, Olga (Volha) Batura, Pavel Bandarchuk, Aryn Patentas, Eileen Orscheln and Louis Wolfson.

Mr. Alpert stated he is in full agreement with moving forward with the Base Plan as drafted and passed by Town Meeting. To change the Plan would probably require a reconvening of the HONE Committee with additional meetings and hearings. The Base Plan was already approved by the EOHLC and if the Board wants to make changes they can do it later. He is in full agreement with submitting the Base Plan by 2/13/25. He feels the Base Plan will pass. The Town is going forward to try to get funds but will not get any if the town is not in compliance. Mr. Crocker is in total agreement with moving the Base Plan forward. He is happy to look at this in the future but not now. He feels it is in Needham's best interest to vote on the Base Plan before the May Town Meeting. He would like to put this to rest. It has had a negative effect on the Town and should not have been. He feels it is critical to move forward with the Base Plan. Mr. Alpert does not feel it needs to go forward before the May Town Meeting. He feels if they are going to expand it to have more apartment housing like this they should do it by special permit.

Mr. Block stated the Town spent a lot of time developing thoughtful zoning reform designed to meet the goal of the Commonwealth to create more housing. He is not convinced the special permit has been the mitigating factor against housing development. He hopes the Town would be open to looking to achieve some more housing but in a way that provides the Town with greater control in the process with more robust oversight. They talked about 888 Great Plain Avenue and he feels dimensional regulations and FAR are appropriate for the area but should be for a larger stretch of Great Plain Avenue. He would like to see the Board work toward that in a way that gives greater control in the process. He would have preferred to be in the process rather than the Select Board just telling the Planning Board what is being done. It makes sense this time to go ahead with the Base Compliance Plan in May so the Town is not out of compliance.

Mr. McCullen supports the Base Compliance Plan. He takes umbrage from a process purist perspective that zoning should be coming from the Planning Board and the Board was not able to make this decision. He feels it is the right decision. He does support the Base Compliance Plan but does not think the process was right. Mr. Alpert agrees it should have been a Planning Board decision instead of the Select Board deciding to act first. It was up to the Planning Board to act first. Mr. McCullen stated it was great the state extended the date for compliance. He agrees with Mr. Block that the board needs to look toward smart planning and zoning that would allow for zoning and commercial first floor development and some sort of overlay that would help toward diversification. Ms. Espada agrees with all and agrees with the process. It was not what she thought should occur but they ended up in the same place. The whole negative effect on the Town bothers her. They had 2 good plans they believed in. They had 58% for one plan and 57% for the other plan. This was a democratic process in the end and she does not understand the negativity. She hopes there can be some consensus going forward. She thanked all in the town for being so passionate and for all the work done in the past year.

A motion was made to support the submission of an Action Plan for interim compliance to the EOHLC which shall consist of advancing the Base Housing Plan to Town Meeting in May of 2025. Mr. Alpert suggested an amendment to say “in May 2025 or such an earlier time as the Warrant Commission may subscribe.” The amendment was accepted.

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

VOTED: to support the submission of an Action Plan for interim compliance to the EOHLC which shall consist of advancing the Base Housing Plan to Town Meeting in May of 2025 or such an earlier time as the Warrant Commission may subscribe.

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

VOTED: to move the Planning Board submit to the Select Board the set of proposed zoning amendments known as the Base Compliance Plan to initiate the process of amending the zoning by-law in accordance with M.G.L. c. 40A §5.

Ms. Newman stated this will go to the Select Board at the next meeting for referral back to the Planning Board for purposes of holding a hearing. There will be legal notices on 1/30/25 and 2/6/25 and the hearing will be held on 2/13/25 at the Broadmeadow School. There will be 2 Zoning Articles. After the hearing the Planning Board will make a recommendation on the Articles.

Attorney Christopher Heep – discussion of state draft regulations on Accessory Dwelling Units.

Town Counsel Christopher Heep noted there have been changes to the law, G.L. c. 40A §3A, at the state level. There are new protections and this includes the Dover Amendment. ADUs have been added to the uses. A new paragraph was added to Section 3 that states cities and towns cannot prohibit ADUs, unreasonably restrict ADUs or require a special permit for an ADU in the Single Family Zoning District. Changes to Section 3 go into effect 2/2/25. The current state of the law is that the EOHLC has to come up with regulations to implement for this. Final regulations will be issued before 2/2/25 but have not come out yet. He is working with the draft regulations with the expectation the final will come out soon. He noted the regulations contain a list of prohibited types of requirements: 1) Neither the primary structure or the ADU are required to be owner occupied. 2) the Board cannot require the ADU be attached and must allow attached or detached. 3) ADUs can have more than one additional parking space if located more than ½ mile from a transit station. The town can require one

additional parking space if greater than ½ mile from transit. If less than ½ mile, they cannot require any more than the principal dwelling. 4) they cannot make the ADU subject to use and occupancy restrictions that goes to income.

Mr. Alpert noted restrictions in town prohibit overnight parking. If the Single Residence B (SRB) District lot has a short driveway and no garage within ½ mile of a train station where is he supposed to park. Mr. Heep stated the town could apply an overnight parking ban but he does not believe there are any parking requirements in SRB Zoning. The By-law could be drafted saying 2 spaces are required for every lot in town or a minimum of one parking space for the principal and one for the accessory for all lots located outside the ½ mile of transit. Both would be appropriate. Under the current zoning that lot with a short driveway could put in an ADU by right without any parking. The change in the law only affects the zoning by-law. He noted 5) there can be no use and occupancy restrictions like affordable rates or age restrictions. Mr. Block asked if the use of the ADU could be restricted to residential use only and not business uses. Mr. Heep stated it could be done in single family dwellings. He does not see why not in the ADU. The only restriction could be the 900 square feet. He noted 6) they cannot have a limit on the number of ADUs constructed in Districts.

Mr. Heep noted presumptively unreasonable regulations include 1) dimensional standards more restrictive than the single family house, 2) cannot apply design standards not applied to single family dwellings or that would render it infeasible to build the ADU, 3) local requirement regarding utilities, 4) more stringent environmental standards than single family dwellings, 5) impact analysis and studies not applied to single family dwellings, 6) any site plan review requirement more stringent than what is applied to single family dwellings and 7) any local prohibition or regulation of modular that is more stringent than the local building code. Any short term rentals need to be consistent with Ch. 64 (g) and there should be no regulation that does not serve a legitimate municipal interest. There should be no regulation that serves a legitimate interest but does not rationally relate to that interest. These are things that cannot be done in the zoning by-law.

Mr. Heep stated the by-law currently requires ADUs to be attached, the owner must reside in one unit and the ADU must be occupied by a family member or caregiver. It also requires both units to have parking. He feels the final regulations will be close to the draft regulations as of 2/2 and the statutory law will be in effect even if the final regulations are not out. The Board needs to revise the regulation Needham has on the books relative to ADUs. They cannot require, through a site plan review, something that is not required on a principal dwelling. Mr. Alpert noted the section that says as soon as these regulations are in effect everything in your zoning that does not comply is automatically thrown out. He asked if the Board would have to amend anything because the Building Commissioner has to allow an ADU application that conforms to the regulations even if they do not conform with the town's requirements. He feels they can take their time. Mr. Heep agreed. He wants to revise the zoning to be consistent with the state regulations. Mr. Block asked why not just repeal the zoning by-law. They are not regulating anything that is required beyond the state. Mr. Heep would like to look this through before offering an opinion on that. He noted repealing a zoning by-law is procedurally no easier than amending a by-Law. It would make sense to repeal and replace at the same time.

Mr. Block feels they could deal with this with a couple of footnotes. One could say "shall conform to these state regulations that may be further amended by the state." The only thing regulated at that point is there would not be more than one on a lot. Ms. Espada suggested Mr. Heep take all the information and give the Planning Board a recommendation. Mr. Heep noted the final regulations will be released within the next 2 weeks. When they are final he can work in earnest on how to draft zoning consistent with the state. Mr. Crocker asked if it has to abide by the lot coverage currently on the books and was informed it does. A discussion ensued. Mr. Heep noted it will be tight for the May Special Town Meeting but it can be done. It will be easy to draft once the final regulations come out. Mr. Alpert wants to say "subject to the same dimensional requirement as the principle building." Ms. Espada asked, if non-conforming, do they need to be kept non-conforming or go by the new regulations. Mr. Heep was not sure. Ms. Newman noted she planned on ADUs and the Base Plan at Town Meeting.

Discussion and Vote to appoint Bill Paulsen to the Large House Review Committee Pursuant to M.G.L. c268A, §19(b).

Mr. Block noted Bill Paulsen has a conflict. He earns a living selling homes that may be new construction or may be sold to a builder for new construction. Therefore, by earning a commission he has a financial interest in any residential lots for sale in town. He is affirmatively disclosing that. Ms. Newman finds nothing substantial to affect the integrity of the service he would provide on the committee. Mr. Crocker stated it is clear he is unbiased. Mr. McCullen stated the Board said they

did not want Mr. Block for the same reasons. They did say they wanted a Real Estate Agent. He did work in Needham and it is a little familiar. He feels it is hypocritical. He is ok as long as Mr. Paulson is not going to be conflicted. Mr. Heep spoke of the rule and the exception to it. A member of the committee cannot be faulted if representing the professional as a whole. He discussed this with him and felt the exemption covered him. Some percentage of his work covers new construction in Needham. The Ethics Commission felt the exemption applies but suggested the Board make a finding under c268A, §19(b) that the appointing Board believes the financial gain is not so substantial as to interfere with his work with the Town. The Board should make the finding and the issue would go away.

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

VOTED: to appoint Bill Paulsen to the Large House Committee as the Planning Board has reviewed the particular matter and the financial interest identified above by a municipal employee, and has determined by vote taken at its January 21, 2025 meeting that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee.

Board of Appeals – January 29, 2025

Ms. Newman noted there are no issues with any of the cases.

51 Fremont Street – Rental City, Inc.

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

VOTED: “No comment.”

378 Manning Street – Nick Koslov and Megan Waldvogel

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

VOTED: “No comment.”

281 Warren Street – Stephanie Cox and Joshua A. Shaller

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

VOTED: “No comment.”

0 Colgate Road – Patricia M. Connolly, appellant

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

VOTED: “No comment.”

Minutes

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

VOTED: to move passage of the 11/19/24 minutes.

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

VOTED: to move passage of the 11/25/24 minutes.

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

VOTED: to move acceptance of the 12/3/24 minutes.

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

VOTED: to move acceptance of the 12/17/24 minutes.

Report from Planning Director and Board members

Ms. Newman noted she, Mr. Crocker and Ms. Espada went to the Finance Committee to present the budget. It was a normal level funded budget with 2 add ons. She has asked for a Planner and additional administrative support. Most of the conversation was around why a new Planner was needed, and what the Planner would do. She is preparing some additional information. Ms. Espada agrees there is a need for more detailed information for the Finance Committee. Ms. Newman stated the Town Manager agrees with the need for another Planner. She is doing the Action Plan this week and will work on gathering the information next week. She will submit it in writing to the Finance Committee and they will make a decision.

Mr. Crocker noted the Large House Review Committee meeting and stated there were 3 action items. They are looking at comparable towns, FAR and tear downs. Ms. Newman noted she is looking at Newton, Wellesley, Lexington, Winchester and Sudbury. She is trying to identify towns with comparable regulations, how they are defining the terms, FARs, what lot sizes, dimensional sizes and dimensional standards and if they have any review process ancillary to the as of right process. She is looking at tear downs over the last 3 years. Also, non-conforming lots to see what houses have been built on those lots and how they are fitting. She is modeling the new non-conforming house and wants to find what is a good fit on a lot. Mr. Block would like to get a copy of all the information from the Committee.

Ms. Newman noted the next meeting is 2/3/25. They will present the information on what the other town's are doing and present information on non-conforming lots. There will be monthly meetings. A report will be given to Town Meeting in May but they are looking at an October Town Meeting. Mr. Crocker would like some kind of meeting before summer. Mr. Alpert noted he is on the search committee for the Town Manager position. A professional has been hired for the search committee. Resumes will be collected until 2/8/25 and they anticipate 20-25 resumes. There will be 10-15 for the search committee to review, then a meeting to discuss the resumes and whittle it down to those to interview. He would like 3 to present to the Select Board, then it is out of the Committee's hands. The professional would like a recommendation to the Select Board by mid-March. Mr. Crocker heard Bulfinch has some interest in developing the Muzi site with housing and retail with possible 55+ housing. Ms. Newman stated she is meeting with Bulfinch tomorrow.

Mr. McCullen noted the Mobility and Coordination Committee had a joint transportation summit in January as per the Charter. There are updates for the Highland Avenue TIP Project and signals. They are looking at it from a funding issue. The Mark Tree Road neighborhood had a meeting with the DPW to discuss reconstruction and whether there should be a sidewalk on one side or both. They may have coalesced with one sidewalk. They also talked about changing the by-laws for subdivisions. The Board always requires sidewalks and then waives them. Envision Needham is going ahead with walk throughs in February. There are 15 points and they will have walking tours.

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

VOTED: to adjourn the meeting at 9:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Artie Crocker, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

February 4, 2025

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 Natasha Espada, Chairman, on Tuesday, February 4, 2025, at 7:00 p.m. with Messrs. Crocker, Block and McCullen, Planner, Ms. Newman and Assistant Planner, Ms. Clee. Mr. Alpert arrived at 7:09 p.m.

Ms. Espada noted this is an open meeting that is being held in a hybrid manner per state guidelines. She 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.

Ms. Espada noted she received correspondence today regarding the Needham Gateway Public Health requirement.

Decision: Amendment to Major Project Special Permit No. 1997-08: EP 63 Kendrick Realty, LLC, c/o Edgewater Properties, LLC, 14 Mica Lane, Suite 202, Wellesley, MA 02481, Petitioner (Property located at 63 Kendrick Street, f/k/a 155 Fourth Avenue, Needham, Massachusetts). Regarding request to make certain revisions to the site and building.

Ms. Newman noted she has a draft decision written for 5 members to approve. If Mr. Alpert does not arrive, she can change that. She noted she made a couple of tweaks to the decision and emailed them out to members. The changes are now incorporated as red lined. She incorporated all comments made by the applicant except for two. The applicant wanted to get rid of the Construction Management Plan. She did not agree to that. The applicant was ok with that in the end. George Giunta Jr., representative for the applicant, reviewed the decision and his comments were incorporated. Mr. Block asked what the standard is for when the Board would require a Construction Management Plan. Ms. Newman stated it would be when the Building Commissioner requires it. She has a condition that the applicant satisfies the Building Department relative to the Construction Management Plan and how the site is going to be managed during construction. That is done through the Building Commissioner's Office. Ms. Espada suggested looking to see when the Board would need it for a decision.

Mr. Block stated it would be good to know what and when the elements are required for projects. He asked if it is when any external construction is being done? Ms. Espada reiterated that is the Building Department purview. The Planning Board just makes sure it is done. Ms. Newman will reach out to the Building Commissioner and see what his thresholds are that he works under. Mr. Alpert arrived at 7:09 p.m. Mr. Giunta Jr. has no comments and is fine with the decision as revised.

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

VOTED: to GRANT: (1) the requested Special Permit under Section 1.4.6 of the Zoning By-Law for the change, extension and alteration of a pre-existing, non-conforming use or building under Zoning By-Law; (2) the requested Special Permit under Section 4.8.3 of the Zoning By-Law to waive the requirements of Section 4.8.1 concerning the setback of surface parking from the intersection of the exterior street lines of a corner lot up to a maximum percentage of 25%; and (3) the requested Major Project Site Plan Review Special Permit amendment under Section 7.4 of the By-Law and Section 4.2 of Major Project Site Plan Review Special Permit No. 1997-08, dated August 5, 1997, amended March 17, 1998 and December 19, 2006, subject to and with the benefit of the following Plan modifications, conditions, and limitations.

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

VOTED: to move adoption of the decision as drafted and further amended this evening.

May Special Town Meeting Zoning Amendment: National Flood Insurance Program (NFIP).

Ms. Newman stated the Town got a letter from the Federal Emergency Management Agency (FEMA). The Agency has reissued the flood plain maps for Needham, which were last issued in 2012. The flooding along the river has been reevaluated and maps reissued. The Town is required to do 2 things legislatively. One is to vote to amend the zoning to recognize the new maps which become the Flood Plain District in Needham. They have had some additional regulatory changes they would be required and the changes will be made to how we regulate flood plains. She just received this. It has to be done by July this year. She is working with Town Counsel and the Town Engineer to develop 2 zoning articles to go forward at Town meeting. The first article would be to amend the current section in the Flood Plain District to reflect the new requirements the federal government is putting on them. The second change is a map change to revise the boundaries of the flood plain to reflect the new line. From 2012 the Town Engineer tells there are some changes that are minor. Engineering is preparing a map that will show the boundaries for the 2012 flood plains and the boundaries for the new flood plains reflected on a 2023 map so they can see how it is changing in different sides of town. She will have those for the next meeting. She and Town Counsel Christopher Heep are working with FEMA to make the regulatory changes to the text to be compliant and FEMA has agreed to review the draft changes. This will happen in a Special Town Meeting. At the next meeting the Board would need to vote the zoning to refer to the Select Board to start the hearing process. Article 2 changes are required to the text and changes for the map change and there will be a map to inform them.

The Board discussed if FEMA is eliminated how this would proceed. Ms. Newman stated a lot of changes were made in 2012. Some things need to be added. Ms. Clee noted there is a schedule for Town Meeting in the packet. It includes the special meeting for this public hearing that will be held on Thursday, March 27. Hearings will be on Thursday for the MBTA Communities and this one. This gives the Board additional time for statutory notice requirements. Ms. Newman noted the Planning Board will meet on 2/25. This will be the first time the members will see the language and will need to finalize it. On 3/13 will be the first time she can run a legal ad unless they ask the Select Board to have a special meeting. This will be a very tight timeframe. The Board discussed the timeline.

Minutes

There were no minutes.

Report from Planning Director and Board members

Mr. Alpert stated a meeting is scheduled on 2/24, regarding the Town Manager position, to discuss resumes. They will be seeing the resumes during school vacation week. They are trying to set a time when interviews can be held. The expert hired for the process wants 5 or 6 to interview and have all interviews in the same day. Mr. McCullen noted the Mobility group will have one meeting to get the current statuses of the Highland Avenue project. Not much has changed. Mr. Block noted the Council of Economic Advisors and stated there are no forthcoming changes. Heidi Frail is the new Chair. He has no substantive updates. He noted the Needham Housing Authority is looking to raise funding for a study for the High Rock Estates. There is a question of whether it could be funded. The Housing Authority may want to come to the Planning Board for a significant zoning change to be able to increase the number of units and the type of development. That is years away. They are also looking for funding for Cooks and Seabeds.

Mr. Block noted the Charles River Center is looking to redevelop the area of Militia Heights. He feels it is a great opportunity and a community asset. Ms. Newman stated they are coming in to meet with the Planning Department tomorrow on this. Mr. Crocker noted the Large House Committee. There was a meeting last night. There is a working group to look at non-conforming lots under 10,000 square feet and houses built over the last 3 years. All data was put together and then they went through the acreage of each lot. Ms. Newman stated the group chose 11 houses to look at. They looked at what was built, the number of bedrooms, FAR and lot coverage and then what happens if the definition of FAR was changed, for example to include basement or attic space and how do those houses pass when you measure FAR in a different way. Most failed under the existing definition of FAR. Mr. Crocker stated 4 were rebuilt by the owners of the property.

Mr. McCullen asked if they are looking from a fiscal impact analysis to bring in a consultant. Ms. Newman stated that might be done. Mr. Crocker stated, when they are ready, they need to look at conforming lots as well as what needs to be changed, how much change the Board wants to make and will that change blanket everything. Soon the working group will get into conforming lots as well. Ms. Newman looked at other towns and collected data of what their rules were. Concord has districts similar to Needham and have floating FAR statistics with a base and incrementally it gets larger with the lot size. Needham's is a straight percentage. Concord has an interesting approach, and she is looking to see if that makes sense.

Mr. Crocker is looking to incentivize putting on an addition rather than tear down and rebuild. Mr. Block asked if Ms. Newman has reached out to the Finance Committee. Ms. Newman noted there is a representative from the Finance Committee on the Committee. Mr. Block feels Mr. McCullen is right that they need to engage a fiscal consultant now. Ms. Newman stated she has the money to pay for this. Ms. Espada noted Ms. Newman had put in for additional money and additional people in the budget but that did not go through. Mr. Block asked if Stan Tec has been awarded to complete the parking study. Ms. Newman noted nothing has been awarded. She applied for a grant to pay for this. No decision has been made on that.

The Board discussed the scope of work. Mr. Block asked if affordability is part of the Committees goals and was informed that is not what is being talked about. The group is talking about what is happening in the neighborhoods, flooding aspects, tree aspects and character. Ms. Newman noted the scale and visible bulk. Mr. Crocker feels the heights and how constraints fit in need to be taken into consideration. They are looking at proportions. He noted there will be meetings the first Monday of the month and it will be handed off to the Planning Board before October for the October Town Meeting. Mr. Alpert asked if there was something about a Tree Committee. Mr. Crocker stated the Select Board is supposed to be putting that together. He is the representative for the Planning Board. It is not full yet and he does not know when the first meeting will be.

Mr. McCullen noted the next steps for the Envision Needham Center project. A consultant has been engaged. Along with the DPW and the committee members there will be an open house event at Town Hall. Some possibilities and concepts that could happen will be presented. Then they will have a group walk Thursday, 2/6, and 3 walks on Saturday, 2/8, with the public invited. There will be information in the Select Board Chambers. There are 14 points throughout Needham. At various stops people will talk about safety, lighting and such. All data will be taken to build some concept plans for possible piloting over the next months. There will be QR codes at all stops so people can go on their own. The street flow is being looked at on Great Plain from Pickering to Linden and then the Town Hall area. There is an open palette for possibilities.

Ms. Newman stated she received an email from Mike Moskowitz, owner of Needham Gateway Plaza. The compactor is not working and the electrical under the parking area needs to be repaired. He wants a temporary dumpster near the corral area. The Board of Health is ok with this on a temporary basis. The Building Commissioner is ok with a 30- or 60-day timeline. She wanted to make the Planning Board aware of this. Mr. Block asked if there are any current rodent problems. Ms. Newman does not think so. Mr. Block asked if Panera Bread would be using the dumpster for food products. He thinks that is a problem with the neighbors. Ms. Espada is ok with the solution as long as the Board of Health is ok with it.

Correspondence

Ms. Espada noted the following correspondence for the record: emails dated, 1/21/25, from Jean Packard and Chris Mooney; emails, dated 1/23/25, from Amanda Berman, Julie Traub, Arthur Cantor and Simon Traub; emails dated 1/24/25, from James McLaughlin, Amy Bellido, Matt Venables and Nancy Yablonski; an email, dated 1/25/25, from Bill Hobbib, emails, dated 1/27/25, from Stephen Currier and Judith McIntyre; emails, dated 1/28/25, from Luda Zeilkov and Irena Shaigorodsky; an email, dated 1/29/25, from Tania Butovsky and an email, dated 1/30/25, from Jessica Greene.

Ms. Clee stated the final ADU regulations are in the packet.

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

VOTED: to adjourn the meeting at 8:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Artie Crocker, Vice-Chairman and Clerk

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: Needham - Determination of Interim Compliance under MGL c. 40A, Section 3A
Date: Monday, February 10, 2025 2:08:22 PM

From: Carlucci, Nathan (EOHLC) <Nathan.Carlucci@mass.gov>
Sent: Friday, February 7, 2025 5:49 PM
To: Kate Fitzpatrick <KFitzpatrick@needhamma.gov>
Cc: Kluchman, Chris (EOHLC) <Chris.Kluchman@mass.gov>; Lee Newman <LNewman@needhamma.gov>; Joshua.Tarsky@mahouse.gov; becca.rausch@masenate.gov; Katie King <kking@needhamma.gov>; Nadeau, Seth (EOHLC) <Seth.Nadeau@mass.gov>
Subject: Needham - Determination of Interim Compliance under MGL c. 40A, Section 3A

Dear Town Administrator Fitzpatrick,

Congratulations! The Executive Office of Housing and Livable Communities has approved the Action Plan submitted on 1/24/2025. Thank you for taking this step as outlined in table 3 in the MBTA Communities Regulations (760 CMR 72.00). With the approval of this Action Plan, Needham has achieved Interim Compliance with the law. This Interim Compliance is valid until the due date for District Compliance, which is July 14, 2025.

EOHLC appreciates submittal of the Action Plan describing Needham's planning efforts related to Section 3A District Compliance and wishes the Town of Needham the best in implementation of its components. If you have any questions regarding this determination, please contact me.

Best,

Nathan Carlucci
MBTA Communities Compliance Coordinator
Executive Office of Housing and Livable Communities
Livable Communities Division
nathan.carlucci@mass.gov



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

February 18, 2025

Louise L. Miller, Town Clerk
Town of Needham
1471 Highland Avenue
Needham, MA 02492

**Re: Needham Special Town Meeting of October 21, 2024 -- Case # 11620
Warrant Articles # 8, 9, 10, and 11 (Zoning)**

Dear Ms. Miller:

Articles 8, 9, 10, and 11 – As explained in more detail below, we take no action on Articles 8, 9, 10, and 11 adopted at the October 21, 2024, Needham Special Town Meeting.

At the October 21, 2024, Special Town Meeting, the Town adopted Articles 8, 9, 10, and 11 amending the Town's zoning by-laws regarding a Multi-Family Overlay District and related map changes. Articles 8 through 11 were intended to allow multi-family housing in Needham consistent with the requirements of G.L. c. 40A, § 3A. See Attorney General v. Town of Milton, 495 Mass. 183, 196 (2025) (General Laws Chapter 40A, Section 3A "creates an affirmative duty for each MBTA community to have a zoning bylaw that allows for at least one district of reasonable size where multifamily housing is permitted as of right."). The Town Clerk submitted the by-law amendments to the Attorney General's Office as required by G.L. c. 40, § 32 on November 21, 2024.

On November 26, 2024, the Town Clerk notified this Office that a referendum petition had been submitted with a sufficient number of signatures and that a special election regarding Articles 8 through 11 would be held on January 14, 2025. See Email from Town Clerk Miller to AAG Caprioli dated November 26, 2024.

On February 10, 2025, the Town Clerk notified the Attorney General by email that "[a]s a result of the [referendum] vote, the Town repealed the actions taken by Town Meeting on the zoning articles that are the subject of MLU Case # 11620." See Email from Town Clerk Miller to AAG Caprioli dated February 10, 2025. In addition, the Town Clerk provided this Office with a certified copy of the January 14, 2025, Special Town Election that states as follows:

Question 1:

Shall the Town vote to amend the Needham Zoning By-law as set forth in Articles 8 and 9 of the October 21, 2024, Special Town Meeting Warrant, including the amendments set forth in Articles 10 and 11?

Yes: 4921

No: 6907

Blank: 1

Question 1 failed to pass.

See Id.

As a result of the January 14, 2025, Special Town Election, the zoning by-law amendments adopted under Articles 8 through 11 have been repealed. For this reason, we take no action on Articles 8, 9, 10, and 11 from the October 21, 2024, Needham Special Town Meeting. The Town should consult with Town Counsel with any questions on this matter.

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.

Very truly yours,

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Director, Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(774) 214-4406

cc: Town Counsel Christopher H. Heep

From: [David Hruska](#)
To: [Planning](#)
Subject: Provocative paper on the housing crisis
Date: Sunday, February 2, 2025 10:25:35 AM

“But land-use regulation stops us from building a mass-produced home and requires instead a very idiosyncratic home. It means every project will be micromanaged. Every project will be small. Every project will be a bespoke build to satisfy five different requirements from the community.”

<https://news.harvard.edu/gazette/story/2025/01/is-small-thinking-the-new-american-way/>

WORK & ECONOMY

Is small thinking the new American way?



Photo illustration by Judy Blomquist/Harvard Staff

Christy DeSmith | Harvard Staff Writer

January 16, 2025 ■ 8 min read

Study says tighter land-use controls have hurt productivity and innovation among builders, fueling housing crisis

U.S. productivity soared in the second half of the 20th century, creating benefits for consumers in the form of lower prices across a wide range of goods. But one critical sector proved a glaring exception: housing.

Today the country faces a housing affordability **crisis**, with ownership out of reach for a growing set of Americans. The price of a new single-family home has more than doubled since 1960, due to a variety of commonly cited factors including labor and material costs. But a recent **economics working paper** highlights another reason for the rising cost of putting a roof over one's head: the stifling impact of “not in my backyard,” or NIMBY, land-use policies on builders.

“If there’s one thing we’ve known since the time of Adam Smith, but even more so since the time of Henry Ford, it’s that mass production — repetition — makes things cheap,” said **Edward Glaeser**, a co-author of the research and the Fred and Eleanor Glimp Professor of Economics. “But land-use regulation stops us from building a mass-produced home and requires instead a very idiosyncratic home. It means every project will be micromanaged. Every project will be small. Every project will be a bespoke build to satisfy five different requirements from the community.”

The new research was inspired by a **2023 paper** by University of Chicago economists Austan Goolsbee and Chad Syverson, who documented what they termed “the strange and awful path” of declining productivity in U.S. construction. The building sector, they found, had outpaced the rest of the U.S. economy throughout the 1950s and well into the ‘60s. Then came a dramatic shift. Between 1970 and 2000, even as the overall economy continued to grow, productivity in the construction sector, measured in housing starts per worker, fell by 40 percent.

At one point during the post-WWII building boom, the biggest builders worked with land parcels averaging more than 5,000 acres, developing thousands of homes on each.

They had scale on their side: In housing construction, firms with 500 or more employees produce four times more units per employee than firms with fewer than 20 employees. Today, firms are much smaller than those of the past.

Innovation has fallen, too. Patenting levels for construction and manufacturing moved together for much of the 20th century. After 1970, patents per employee soared in manufacturing — but they declined in construction.

New homes now cost twice as much in real terms as they did in 1960, putting homeownership out of reach for a growing set of Americans.

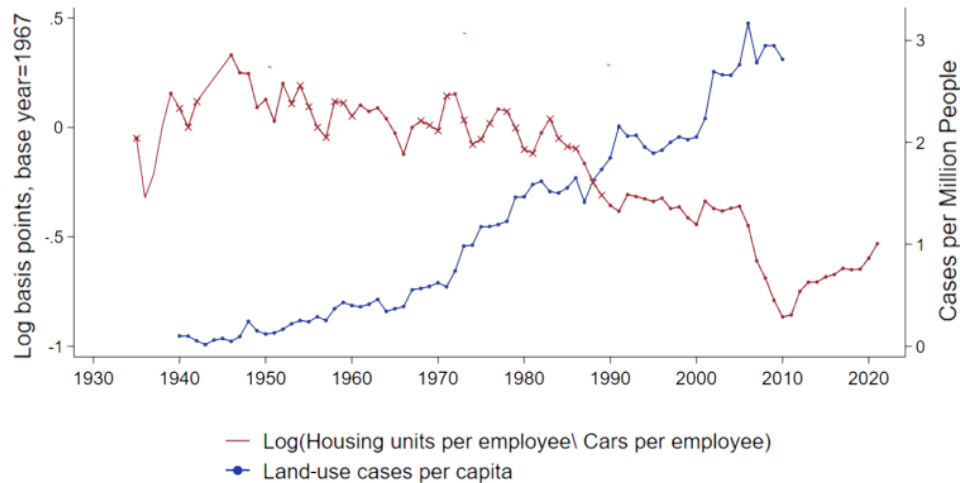
The findings resonated with Leonardo D'Amico, a Ph.D. economics candidate in the Griffin Graduate School of Arts and Sciences who arrived at Harvard from Italy in 2019. "America is extremely productive in so many industries, especially compared to Europe," he said. "But housing construction was this glaring example of missing productivity."

Glaeser and D'Amico partnered with three co-authors, including **William R. Kerr**, the Dimitri V. D'Arbeloff – MBA Class of 1955 Professor of Business Administration at Harvard Business School, to investigate whether the rise of NIMBYism had driven the sector's divergence. They started in the early 1900s, seeking a broad view of innovation and productivity among U.S. builders.

The century of Census data the team collected showed a steep increase in housing productivity from 1935 to 1970. In fact, the researchers saw that the number of homes produced per construction worker during this period often grew faster than total manufacturing output per industrial worker — including the number of cars produced by auto workers. "This goes against the idea that there is something about the housing sector that makes it impossible to grow," D'Amico emphasized.

Like Goolsbee and Syverson, D'Amico and colleagues found that construction productivity hit reverse circa 1970 — just as the volume of local and regional land-use regulations **picked up**. In contrast, the authors saw that productivity in auto manufacturing continued to climb, with cars today costing 60 percent less (when adjusted for inflation) than in 1960.

As land-use regulations climbed, housing construction productivity sank compared with auto manufacturing



Source: "Why has construction productivity stagnated? The role of land-use regulation"

To explain the role of regulation in high housing costs and falling construction productivity, the new paper presents a model in which the proliferation of land-use regulations served to limit the size of construction projects. Smaller projects, in turn, led to smaller firms with fewer incentives to invest in cost-saving innovations associated with mass production. Testing the model meant quantifying the size of housing developments over time. Drawing on historical real estate data from **CoreLogic** and other sources, the researchers found that the share of single-family housing yielded by large-scale building projects has indeed been in decline.

"Documenting the size of projects over time is something we're particularly proud of in terms of empirical contributions," said Glaeser, an urban economist who has studied housing for more than 25 years. "It enabled us to show the decline or even elimination of really big projects over time."

The paper includes a section comparing the scale of current projects against that of Long Island's famous **Levittown** development, home to more than 17,000 cookie-cutter houses built in the late '40s and early '50s.



Edward Glaeser.
Niles Singer/Harvard Staff Photographer



Leonardo D'Amico.

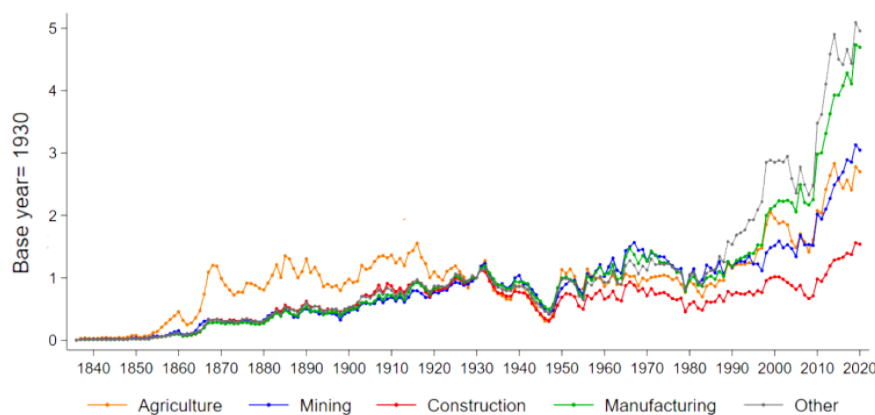
“Entrepreneurs like William Levitt figured out ways to mass-produce housing on America’s suburban frontier,” Glaeser said. “They sent carpenters up and down the street; they sent plumbers up and down the street. It was all moving toward economies of scale, with Levitt moving into modular, prefabricated housing by the 1960s.”

Post-war builders developed thousands of single-family homes on land parcels that averaged more than 5,000 acres. Today, the researchers write, the share of housing built in large projects has fallen by more than one-third, while developments on more than 500 acres are “essentially nonexistent.”

The researchers also detail the productivity advantages enjoyed by large builders like Levitt. Using **economic** and **business** Census data, they show that construction firms with 500 or more employees produce four times as many housing units per employee than firms with fewer than 20 employees. Yet employment by large homebuilders started falling in 1973, with no comparable decline in manufacturing or the economy at large.

Firms proved smallest — and least productive — in areas most inclined toward NIMBYism, the researchers found. Homebuilders in these regions navigate rules covering everything from lot size and density to design as well as planning commissions, review boards, and sometimes even voter referendums. But a closer look at the construction sector's patenting and R&D activity uncovered nationwide impacts.

Since the 1970s, construction patents have lagged other industries



Source: "Why has construction productivity stagnated? The role of land-use regulation"

"We see in the data that the construction industry was patenting and innovating as much as other industries before the 1970s," said D'Amico, who is working with fellow Ph.D. candidate Victoria Angelova on a separate paper that **investigates the connection** between housing costs and fertility rates — underscoring how housing affordability can influence the most fundamental decision-making.

More than 150 years of patenting activity showed the construction industry lagging in the last three decades of the 20th century. "At first we thought maybe it's because building suppliers were innovating; it's just not the builders themselves," D'Amico said. "But we looked at manufacturing firms that serve the construction industry and, remarkably, even their share of innovation has gone down compared to manufacturing firms overall."

One upshot is what Glaeser characterized as "a massive intergenerational transfer" of housing wealth. He cited his **2017 paper** with University of Pennsylvania finance and business economist Joseph Gyourko, who is also a co-author on the new paper. The pair showed that 35- to 44-year-olds in the 50th percentile of U.S. earners averaged nearly \$56,000 of housing wealth in 1983, while the same demographic held just \$6,000 by 2013. Compare that with median earners ages 65 to 74, who averaged more than \$82,000 in 1983 and \$100,000 in 2013.

\$87,120

Average home equity for 45- to 54-year-olds at the 50th percentile of U.S. earners in 1983

\$30,000

Average home equity for 45- to 54-year-olds at the 50th percentile of U.S. earners in 2013

Source: Survey of Consumer Finances

“For me, it harkens back to a model of economic growth and decline that was put forward by **Mancur Olson** in the 1980s,” said Glaeser, citing the economist/political scientist who described a historical pattern of stable societies generating powerful insiders who guard their own interests by effectively shutting out up-and-comers.

Glaeser was pursuing his Ph.D. at the University of Chicago in the early 1990s when he first encountered Olson’s “The Rise and Decline of Nations” (1982). At the time, the book’s ideas struck him as apt descriptions of the country’s coastal housing markets. But today, Glaeser said, the problem is more widespread.

“Olson captured the unfortunate reality that insiders — or people who have already bought homes — have figured out how to basically stop any new homes from being created anywhere near them,” Glaeser said.



