

## NEEDHAM PLANNING BOARD MINUTES

November 18, 2014

The regular meeting of the Planning Board held in the Charles River Room, Public Services Administration Building was called to order by Martin Jacobs, Chairman, on Tuesday, November 18, 2014 at 7:00 p.m. with Mr. Eisenhut and Warner and Mss. McKnight and Grimes as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

### Correspondence

Mr. Jacobs noted a reprint of a Boston Globe article, dated 10/24/14, regarding office construction.

### Public Hearing:

**7:00 p.m. – Amendment to Major Project Site Plan Special Permit No. 1993-2: General Dynamics C4 Systems, Inc., 8201 E. McDowell Road, Scottsdale, AZ 85251 and General Dynamics Information Technology, Inc., 3211 Jermantown Road, Fairfax, VA 22030, Petitioners (Property located at 77 A Street, 156 B Street, 189 B Street & 0 A Street, Needham, Massachusetts 02492). Please note: This hearing has been continued from the November 5, 2014 meeting of the Planning Board.**

Mr. Jacobs noted the following correspondence for the record: an 11/14/14 letter from Attorney Robert Smart with 4 sets of enclosures – a certification from Robert M. Field, a new draft of the amended decision, a further redraft and an As-Built plan dated 10/31/14 with changes. Robert Smart stated the plan has 2 sheets with revision dates of 11/14/14.

Mr. Smart stated he was here for site plan and special permit relief. He noted there were zoning issues left over from the 1999 decision. He wants to resolve the issues prior to the pending sale of the property. There is no construction proposed by the applicant. He noted at the last meeting Mr. Eisenhut was concerned with granting the relief without requiring completion of Phases 2 and 3. He stated Attorney Roy Cramer and his clients spoke and indicated it was the intention of the buyer to go forward with permitting of new construction.

Mr. Smart stated Ms. McKnight expressed concern with Section 1.24 of the draft decision which asked that the Board make a determination that the site is a lawful pre-existing, non-conforming use and structure. Ms. McKnight commented she did not feel the Board should be making that sort of zoning opinion. Mr. Jacobs suggested an alternative. The applicant has provided a certification from Bob Field as to the actual site conditions that existed in 1999. They have provided a revised As-Built plan and added a couple of notes. They have corrected the parking requirement which is going from 1,329 to 1,330 and he has added a landscape note on sheet 3. He feels they have satisfied all plan modifications and there is no longer any requirement for any further plan modifications.

Mr. Smart stated there are 2 new exhibits: a certification from Bob Fields and a new As-Built. The applicant has provided a revised Section 1.24, which tracks some certifications from Bob Fields and eliminated some plan modification sections. Sections 3.5 and 3.7 were duplicates so one came out and there was a recitation regarding Sam Bass Warner participated by listening to the tape. Mr. Smart stated he was fully satisfied with the decision as written.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to close the hearing.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to grant the requested Major Project Site Plan Special Permit under Section 7.4 of the By-Law; to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), Subsections 5.1.3 (a), (c), (d), (f), (g), (h), (i), (j), (k), (l), (m) and (n) to enable the parking area to be utilized as shown on the Plan as modified by this Decision and subject to and with the benefit of the specified Plan modifications, conditions and limitations.

Upon a motion made by Mr. Eisenhut, and seconded by Ms. Grimes, it was by the five members present unanimously:

VOTED: to adopt the form of the decision titled "Amendment to Decision November 18, 2014" as the Planning Board discussed and as the Planning Board amended.

### **Report from Planning Director**

Ms. Newman noted a temporary Occupancy Permit was issued for North Hill and the Planning Board took a bond of \$100,000. The Planning Board signed the bond agreement.

### **Set 2015 Schedule.**

Ms. Newman stated the Planning Board currently meets the first and third Tuesday's of the month. She asked if the Board could move to the second and fourth Tuesday's. She noted it would be better on her end. Ms. Grimes stated she would have to check. Ms. Newman stated they would hold off until they hear from Ms. Grimes.

### **Minutes**

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

VOTED: to accept the minutes of 4/1/14.

Upon a motion made by Ms. McKnight, and seconded by Mr. Warner, it was by four of the five members present (Mr. Eisenhut abstained):

VOTED: to accept the minutes of 10/27/14, that are in draft form, as final.

### **Report from the Planning Director**

Ms. Newman noted the property at 1016 Charles Street. There are some issues with the construction of the parking lot. The Conservation Commission issued an Order of Conditions for that property. The applicant has a temporary occupancy permit with the existing tenant that will expire. She stated the Board should extend the temporary through January to give the Conservation Commission time to come up with a plan.

Upon a motion made by Ms. Grimes, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to extend the temporary occupancy permit to the end of January 2015.

Mr. Eisenhut stated he believes the Rail Trail is on the Conservation Commissions agenda this Thursday.

**7:30 p.m. – Definitive Subdivision Amendment: 250 Cedar Street Realty, LLC, Dennis Paul, Manager, Petitioner (Property located at 250 Cedar Street in Needham, MA). Please note: This hearing has been continued from the September 2, 2014 and October 7, 2014 meetings of the Planning Board.**

Attorney Robert Smart, representative for the applicant, Dennis Paul, owner of 250 Cedar Street Realty, LLC, stated the applicant has a prospective buyer. The property is at the corner of Homsy Lane and Cedar Street. The back part is in Wellesley. The proposal is to modify the plan to allow the razing of the existing house and divide Lot 13 into 2 lots – 13A and 13B. He noted he met with Planning Director Newman and Town Engineer Anthony

DelGaizo to discuss physical access from Homsy Lane to these lots. Some rock has to be removed to allow access and driveways to these homes.

Mr. Smart noted Field Resources did a lot plan. He reviewed the plan. He noted there were very modest slopes but some rock needs to be removed. He stated Town Engineer DelGaizo felt this could be done. Mr. Smart noted he was asked to clean up the draft Cedar Street Association documents. There are several documents involved and he noted new lot owners will be participating in the Association. The Board asked the applicant to get documentation regarding sewer pump capacity. Mr. Smart sent the letter to the Board on 10/3/14 from Williamson New England Electric stating there is enough capacity. He also sent information regarding lot numbers, addresses, owners' names and deed numbers. Mr. Smart stated he is happy with the draft decision that Ms. Newman prepared.

Mr. Jacobs noted the following correspondence for the record: a letter, dated 10/14/14, from applicant Dennis Paul (Manager, 250 Cedar Street Realty LLC) regarding removal of ledge; an email, dated 10/30/14, from Fire Chief Paul Buckley, with no concerns or objections; an email, dated 10/30/14, from Police Lt. John Kraemer, noting no safety concerns; a letter, dated 11/13/14, from Town Engineer Anthony DelGaizo, noting no comments or objections and a form of Amended Certificate of Action No. 6 dated 11/18/14. Ms. Newman noted it references a later plan that was presented.

Dave Kerwar, of 1 Polaris Circle, stated he had a good discussion with Dennis Paul. He documented a few issues in a letter that he and another abutter signed. He stated, with blasting, he wants to see the insurance documents. He noted the water level might change and he asked if Mr. Paul would consider signing the letter he drafted to document what they had discussed. Mr. Jacobs stated he does not know about the letter and it is between the two parties. Mr. Paul said he was going to sign the letter after the project was approved. Mr. Eisenhut asked Mr. Kerwar if he wants the Board to include any conditions to the approval.

Mr. Kerwar stated he spoke with someone in engineering. He was told that, by law, there would be someone who would come inspect the abutting homes prior to the blasting as well as an insurance official present at the site. He wants to make sure this is accurate and the Town will follow the law. Mr. Paul stated that is a law, every town is the same, and he noted the Fire Department is the department that oversees it. The Fire Department verifies everything and has a detail on site during all blasting. Mr. Kerwar stated that Mr. Paul agreed to put a fence up; Mr. Paul confirmed this. Mr. Kerwar stated his concern is it may change the water table level. Mr. Jacobs informed him the Town Engineer is asked to review applications. The Town Engineer reviewed and did not make a comment. Mr. Paul stated nothing affects the water table; it's a sub-level situation and cannot be changed based on what is put on top. All the water will go away from Mr. Kerwar's house.

Ms. McKnight stated she noticed the decision has the Board approving subject to conditions and waivers as set forth. She asked if there was anything that is a waiver. Ms. Newman clarified that refers to waivers already given.

Mr. Kerwar stated they spoke about landscaping and that some of his landscaping will be removed. Mr. Paul noted that it is possible that some of Mr. Kerwar's landscaping is on the subdivision property. He will not touch anyone else's land. If some of Mr. Kerwar's landscaping is on the subdivision land and gets disturbed, it will be replaced and made to look good. Mr. Jacobs suggested Mr. Kerwar speak with the Fire Chief regarding blasting. Ms. Newman stated the town noise regulations say blasting will be limited in time from 7:00 a.m. to 8:00 p.m.

Upon a motion made by Ms. Grimes, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to close the hearing.

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

VOTED: to approve the Cedar Street Subdivision Modification, as shown on the Plan, located in Needham, Norfolk County, Massachusetts, subject to the conditions set forth in the draft decision as well as

all conditions and waivers contained in the original "Cedar Street, Definitive Subdivision Decision," dated March 23, 1994. The modification herein granted shall not become effective until such time as the Cedar Street Association accepts both Lot 13A and Lot 13B into its membership and amends its documents accordingly.

**7:45 p.m. – Major Project Site Plan Special Permit No. 2014-10: Gilbert W. Cox, Jr., 60 Dedham Avenue, Needham, MA 02492, Petitioner (Property located at 60 Dedham Avenue, Needham, MA, 02492).**

Attorney George Giunta Jr., representative for the applicant, stated they are adding an elevator to provide handicap access to the second floor. He noted this is next to the new building now being constructed on Dedham Avenue. The property is 17,500 square feet of area, there are 3 separate sub parcels and 112 feet of frontage on Dedham Avenue. The existing building is 2 story masonry built in 1961 with a basement that is occupied by office and medical office. There is 15,711 square feet of gross floor area. He stated this complies with all requirements. With the addition of the elevator to the back, the elevator and vestibule are just over 141 square feet and the building still complies with all requirements.

Andrew Leader, architect, stated the elevator will service the first and second floors. The basement will have the mechanical room for the elevator. Ms. McKnight asked what the surface was. Mr. Leader noted it is brick veneer on 3 sides on 8 inch block and they went to a full 12 inch in the rear. There will be a first floor vestibule and lobby and elevator shaft. The second floor is almost identical. They are removing a window on the second floor. It is mostly glass and synthetic stucco on foam board or block. Ms. McKnight asked if the elevator will access the basement and was informed it would not.

Mr. Leader stated it is a 2 piston double rail hydraulic elevator. Mr. Jacobs noted the building is 15,711 square feet. Mr. Giunta Jr. noted the total area is 17,537 square feet. Mr. Jacobs noted the following correspondence for the record: an email, dated 10/22/14, from Police Lt. John Kraemer, noting no safety concerns; an email, dated 10/22/14, from Fire Chief Paul Buckley with no objections or concerns; and a letter, dated 11/13/14, from Town Engineer Anthony DelGaizo commenting one of the property lines does not match existing records information.

Mr. Giunta Jr. stated he saw this letter and he runs into this every now and then. Engineering asks the owners to file an owners plan. It is not unusual and is no problem. Ms. McKnight asked if the intent was to consolidate the 3 parcels into one lot. Mr. Giunta Jr. stated the lots are already in common ownership and they will show up as one lot. Ms. Newman stated the Board will vote this at the next meeting. She will have a draft decision in advance of the meeting.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to close the hearing.

Mr. Giunta Jr. noted the applicant is requesting a parking waiver.

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

VOTED: to reopen the hearing.

Mr. Giunta Jr. noted the requirement for parking is 53 and the applicant has 36 spaces. The addition bumps the parking demand up to beyond the existing conditions. He noted they will require an 18 space waiver which is one space more.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to close the hearing.

## **Appointments:**

### **8:15 p.m. – Informal Discussion: Michael Tedoldi regarding 15 Oak Street, Needham, MA.**

George Giunta Jr., representative for the applicant, noted his 11/13/14 letter with some proposed plans and sketches. He stated it is a simple matter. Mr. Tedoldi will be joining him. Several years ago, the first mixed use building was built in the downtown – it's the building at Maple Street and Great Plain Avenue. At the time, the zoning had to be tweaked to allow that building to go in. There was a rule that you could not occupy anything above the second floor and there were no dormers allowed. He stated the By-Law was amended for the Center Business District to allow occupancy in the half story above the second floor and to allow dormers consistent with the dormer rule that had been put in place for residential. He stated the applicant would like the Planning Board to propose an amendment to the By-Law to make it the same for the Chestnut Street Business District. The applicant has acquired a land locked parcel on Oak Street. There would be medical office on the first floor and 3 residential units above. He would like to occupy the half story above the second story, which makes the plan much more feasible. There are a series of dormers proposed. This breaks up the roof line and adds interesting features. It abuts the railroad and has no frontage on Oak Street. Mr. Giunta Jr. stated this building is behind a building on Oak Street and has an access easement from Oak Street.

Mr. Warner stated the hospital is an ugly building and this building has some of the same qualities. He requested the applicant tone it down and make it more modest in its execution. Mr. Eisenhut noted this is not about design. It is about if the Board wants to rezone the area. Mr. Warner stated he is in favor of the proposal.

Ms. Grimes asked if the units were rentals or owned. Michael Tedoldi stated they were rentals. Ms. McKnight stated Mr. Tedoldi did rentals in Needham Heights and they came out very nice. She noted this will be 3 residential living units and office. Ms. Newman stated they are extending the right to another district. She feels it makes sense. Mr. Eisenhut stated they need to think through the consequences to the whole district not just this particular lot. Ms. Newman stated the Chestnut Street district has an overlay allowing 3 + 1 but not this parcel; it is not big enough. Mr. Eisenhut stated the Board needs to think through any unintended consequences. He noted Marsh Road could be developed under this. Mr. Tedoldi stated the rest of the town is 2½ story.

Ms. McKnight stated the Board was trying to encourage consolidation of lots. One issue might be if the Board lets people have more development on the existing lots there may be less incentive to utilize the overlay. Mr. Giunta Jr. stated in this district under the overlay you need to have frontage on Chestnut Street to take advantage of the biggest bonuses. There is a very narrow 10 foot wide easement to this property. Mr. Giunta Jr. stated, fundamentally, this is not changing the nature of the site. The applicant is only replacing the building. This is a grand-fathered non-conforming, pre-existing lot.

Mr. Jacobs read the request and noted it seems to be consistent with what the Board wants to do. Ms. Newman stated she will prepare the proposed draft language for the Board's review. She stated the Board could vote to refer it to Town Meeting for the spring. She can do an existing land use map for Mr. Eisenhut for the second meeting in December. Ms. McKnight stated she should include the Garden Street end of the Chestnut Street zoning district on the map.

### **Update and Discussion: Zoning for Medical Marijuana.**

Mr. Jacobs stated he prepared a list of options and reviewed them. Option 1 – do nothing; Option 2 – report only to Town Meeting on the status for the By-Law, which could be in conjunction with the Planning Board making a finding that an RMD is like another use in the By-Law and could be allowed by special permit that way (Mr. Jacobs noted that the latter part of this Option could be done with any chosen Option); Option 3 – go back to the first proposal (overlay); Option 4 – simplify the last proposal; Option 5 – expand the catch-all use category to additional districts; Option 6 – propose a new RMD category and Option 7 – other ideas. Ms. Newman stated the Board needs to decide how they want to move forward before the next meeting.

Ms. McKnight stated option 4 would not be an overlay. Ms. Newman stated it would allow the use through the use table including offsets the Board wants and with criteria that will have to be developed. Ms. McKnight asked if the criteria would be added to the Special Permit section of the By-Law. Ms. Newman stated it could be added. Mr. Warner stated the climate seems to have changed, and the Selectmen seem to be trying to keep any medical marijuana out of town. Mr. Jacobs stated he was not sure he agrees. He feels the Selectmen would like option 1 or, if necessary, option 4.

Mr. Warner asked how option 4 would work. Mr. Jacobs stated they would not have an overlay and simplify it. He noted if a Registered Marijuana Dispensary were to come to Needham the applicant would want to be near the 128 interchange. Mr. Eisenhut stated that may or may not be true. Mr. Jacobs stated it makes sense to be close to the on/off ramp if the applicant is doing deliveries. Ms. Grimes stated options 1 and 2 could not be in the Mixed Use 128 District. Ms. McKnight stated she met for the second time with the Selectmen. The Selectmen are reluctant for the Planning Board to find a Registered Marijuana Dispensary is like something else.

Ms. Grimes stated she feels Town Meeting is not informed. She feels it is on the Planning Board to tell them where this is without some sort of rezoning. She feels it is important for the Planning Board to do that. Mr. Jacobs commented he tends to agree with Ms. Grimes. Mr. Warner asked if Option 3 (the overlay) was the simplest. Ms. Newman stated she does not think that would go well.

Mr. Jacobs stated the Board of Selectmen said they believe if the Planning Board is not unanimous the Planning Board should not do anything. Mr. Eisenhut stated it will not be unanimous. He noted Amherst did what he thinks is the right thing to do. Amherst said an RMD was a business use; it should be allowed by Special Permit in any Business District; they put a 25,000 square foot limitation on the size of the facility; they put a 300 foot buffer zone from residences and places and facilities where children congregate and that was it. It was very simple. Ms. Newman stated Amherst differentiated the uses also. Mr. Eisenhut stated he feels a case should be made in the Special Permit process whether it is a good location or a bad location. He would not support putting a Registered Marijuana Dispensary in a very limited area in the back part of town.

Mr. Jacobs stated the Board could include Industrial and Industrial 1. Ms. McKnight stated they did not include it before because they didn't think the access was as good to the highway. Ms. Newman said Industrial 1 has good access off of the highway.

Mr. Warner stated he is convinced the Selectmen are opposed to any RMD coming in. Amherst's approach seems attractive. He noted he is willing to go along for unanimity. Mr. Eisenhut commented he is inclined to let the state straighten out its own mess and do nothing. Mr. Jacobs asked if Mr. Eisenhut would be ok with Option 1 or 2. Mr. Eisenhut stated Option 2 would be fine with factual clarification.

Ms. Grimes commented it is unclear as to how a future Planning Board will categorize these clinics with Options 1 and 2. This Board will have no control over that. She feels it is not appropriate to do nothing. She thinks they should look more at Option 4 and, if they did it through the use table, it did kind of follow what Concord did for the most part. She thinks they could actually expand the area more than what our current Board feels right now is allowable as a catch-all use and put a facility closer to the highway access. Mr. Jacobs clarified she was talking about Mixed Use 128, Highland Commercial 128 and keep Industrial and Industrial 1. Ms. Grimes stated she has no problem keeping Industrial and Industrial 1. Mr. Eisenhut asked why not the New England Business Center. Ms. Grimes stated the goal of that area is to revitalize it and make a more residential urban use.

Olof Ingare stated the Board needs to mind the buffer zone. He thinks it is the right thing to do by overriding the state buffer zone. He noted the dispensary may cultivate only, dispense only, sell only or have a combination. The town needs to support any variation. The applicant may only do one and the Board needs to keep that in mind. He stated a business use is a good idea but the Board should not limit themselves. He stated an RMD is not a pot shop. Only patients will have access.

Mr. Ingare stated he would request the Board keep an open mind regarding zoning. He stated it should be in Mixed Use 128, Highland Commercial, Industrial, Industrial 1 and the New England Business Center. He

commented downtown would be good if limited to dispensing but there are a lot of nearby residences. He can see that around the highway would be better. Ms. McKnight stated she fears that if the New England Business Center is included, there will be opposition from a lot of sources and the town will not get a two thirds vote.

Ms. Grimes asked what Ms. McKnight was thinking now. Ms. McKnight stated she was thinking Option 4. Mr. Jacobs asked if she was thinking Mixed Use 128, Highland Commercial with certain setbacks from residences and Industrial 1. Ms. McKnight stated yes, noting that in Industrial you have to come in off Central Avenue. Mr. Eisenhut stated if the New England Business Center is included he will support it; if not, he will not support it.

Ms. Newman stated if there is no finding it is similar to another use, it will only be allowed in Industrial, Industrial 1 and a section of the business district gets knocked out. Mr. Warner stated he would support this compromise. Mr. Jacobs stated he is on board with that. He thinks this will stand a pretty good chance of getting the Selectmen's support. Mr. Eisenhut stated he will abstain.

Ms. Newman stated she will draft something to look at the use table to allow Registered Marijuana Dispensaries in those districts, how she would do that and what criteria she would want to carry forward to embed in the Special Permit process. She will also look at what happens if they reduce the setback down to 300 feet. Ms. McKnight stated the Board should draft a By-Law that just says set back from protected properties located within Needham.

Mr. Ingare stated the problem is due to so many activities spread around. Other towns do not allow dance studios in the Industrial zone. The Board needs to clarify setbacks from schools and parks and not more broadly where children congregate.

#### **Report of the Planning Director**

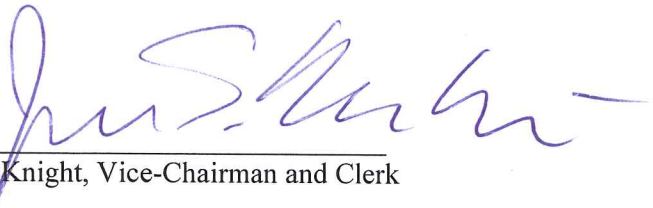
Ms. Newman stated she has been working with the Large House Review Study Committee on By-Law amendments to take to spring Town Meeting. They need to deal with retaining wall construction such as Wellesley has and how the Board measures height and make adjustments there. There have been some concerns/suggestions raised about creating an average setback along the street for the front yard rather than a minimum setback. There is some consensus from the Committee but she does not feel they will reach a consensus on floor area to lot area ratio (FAR) yet. Ms. Grimes confirmed she feels they are getting some consensus from the Committee. Ms. Newman stated there is a potential hearing in the spring.

Mr. Jacobs stated they need to think about how many proposed zoning By-Law changes they can bring to Town Meeting. The Selectmen has been limiting in the past. The Planning Board may have 8 to 10 and they need to prioritize. Mr. Warner stated he thinks speed bumps should be discussed for Rockwood Lane. He would like to send a letter with suggestions. Ms. Grimes noted she agrees with the speed bump. Mr. Jacobs stated the suggestion was to put a stop sign. This should be referred to traffic management and he thinks it should come from the Planning Director. Ms. Newman stated the Planning Board does not control the streets. The Board cannot require a stop sign on a public street. Ms. Grimes stated they could require a speed bump on a private way. Mr. Eisenhut asked if they could make a recommendation to the Traffic Advisory Committee that there should be a stop sign. Ms. Newman stated the Board could do that. Ms. Grimes noted if the Board cannot get a stop sign she feels the applicant needs to install a speed bump on the private way.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Warner, it was by the five members present unanimously:

VOTED: to adjourn the meeting at 9:40 p.m.

Respectfully submitted,  
Donna J. Kalinowski, Notetaker



Jeanne S. McKnight, Vice-Chairman and Clerk