



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

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

PLANNING

NEEDHAM PLANNING BOARD

Charles River Room, Public Services Administration Building
500 Dedham Avenue, Needham, Massachusetts

Tuesday February 18, 2020
7:00 p.m.

1. Public Hearing:

7:05 p.m. 390 Grove Street Definitive Subdivision Amendment: Elisabeth Schmidt-Scheuber, 390 Grove Street, Needham, MA, Petitioner, (Property located at 390 Grove Street, Needham, MA).
Please note: this hearing has been continued from the February 4, 2020 meeting of the Planning Board.

2. ANR Plan – 766 Chestnut Street, LLC, Petitioner, (Property located at 766 Chestnut Street, Needham, MA).
3. Determination of Proposed Use – Self Storage (Property located at 77 Charles Street, Needham, MA).
4. Discussion of Highland Commercial 1 Zoning initiative.
5. Update on Economic Development Director.
6. Appointment to Emery Grover Working Group.
7. Minutes.
8. Correspondence.
9. Report from Planning Director and Board members.

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

FUTURE DATES: Planning Board Meetings: March 4, 2020, March 17, 2020, April 7, 2020, April 21, 2020, May 19, 2020, June 2, 2020, June 16, 2020.

Needham Planning Board
Needham, MA 02492
February 11, 2020

RE: Proposed Subdivision at 390 Grove Street

Dear Planning Board Members,

My name is Domenic Colasacco. Along with my wife, I own the property at 426 Grove Street, which directly abuts 390 Grove Street for approximately 400 linear feet on my north boundary. We purchased our property about 20 years ago from Fred & Lois Glass, just prior to their filing a formal subdivision plan to create four buildable lots from the nearly six-acre parcel we now own. I still have a copy of their proposed subdivision plans. We never moved forward with the subdivision plan of the prior owners, and do not expect to ever do so. We built a new home on the parcel soon after we purchased the property. Once both of us are no longer able to live here, our plan is to find a buyer who will not subdivide our property. If that sale plan is not successful, we expect to donate much of the rear excess land to the town for addition to Ridge Hill Reservation, which is contiguous to our rear property boundary for nearly 500 linear feet. I feel very fortunate that our financial status allows us to not seek maximum value for our property through a subdivision.

Over the past 20 years, I have spoken with Elisabeth Schmidt-Schueber, the owner of 390 Grove Street, and her son Moritz, on several occasions. I have offered repeatedly to purchase either all or just the portion of 390 Grove Street that borders our property. In each instance, they declined to sell any of their land to me. The primary reason given was their view that the property was worth far more than I was offering. Although I believe their opinion of fair value has been significantly inflated (as subsequent events have proven), I respect their position. I also understand fully that their financial circumstances may require them to seek maximum value rather than to have an objective that takes preservation of the land into consideration. That is clearly their right.

The last time I spoke directly with Moritz about potentially purchasing all or a portion of 390 Grove Street was in the fall of 2016. Moritz called me to let me know that the property adjacent to theirs, then known as 380 Grove Street and owned by the estate of Mrs. John Alden, was about to be listed for sale at a price of close to \$2 million. Moritz told me that they too were about to list their land for a similar amount. He asked if I was still interested in buying all or part of the property. I told Moritz that I was interested, but I expressed my view that the Alden property was far more valuable than theirs even though the total land area of the two was similar. The key difference was that the Alden parcel had 300 feet of frontage on Grove Street, while theirs had only about 170. Consequently, the Alden property, unlike theirs, could be easily subdivided into two buildable lots without a road or variance.

At the time, I also stated that I wanted to see responsible development of the two land parcels. Indeed, I offered to buy both properties, combine them, and seek approval for a short, well designed cul-de-sac with four or five building lots that conformed fully with the Needham by-laws. After normal due diligence, I estimated that the two parcels, as is, were worth \$3 to \$3.5 million, depending on whether four or five homes could be built. Moritz (and I presume his mother) decided not to accept my attractive offer. About six months later a developer purchased the Alden property for \$1.7 million, or close to my estimate of value. The developer subdivided the Alden land into two building lots, as allowed given the 300 feet of street frontage, and built two lovely homes that enhance the character of the neighborhood.

Now, after more than three years of having 390 Grove Street for sale for \$2 million plus without success (a value that I---and clearly the general market---viewed then and now as an unrealistic expectation) Elisabeth and Moritz have decided to petition your Board to allow subdivision variances for the development of their property. Just as it has been their right to refuse my offers to purchase their property, it is also their right to try to convince you to grant them waivers to Needham's subdivision by-laws. I suspect that they would not be proceeding with such a time consuming and expensive process as petitioning the Planning Board, however, if they had an attractive subdivision potential "as a right" by simply following the town by-laws. Therefore, I must conclude that the primary reason they decided to seek development variances is solely to squeeze every potential dollar from their land by a combination of performing fewer development improvements and/or increasing the lot sizes and building envelopes to allow construction of larger homes, which would be more appealing to a builder.

I am neither a developer nor real estate attorney. Hence, I am not familiar with the usual process your Board follows in allowing variances to a subdivision plan that is not within the requirements of the Needham by-laws. I would hope, however, the process you follow includes taking into consideration the impact on the direct abutters---and neighborhood generally---when you grant variances that financially aid the property owner seeking the variances at the significant expense of nearby owners. Let me state very clearly that, in my view, I and my neighbors would suffer financial harm, and the entire neighborhood aesthetic degradation, if you allow the subdivision plan for 390 Grove Street to move forward as proposed. Among the reasons for my view are; a) the house on the front lot is likely to be placed sideways rather than face Grove Street, with far less than the typical spacing from the two existing adjacent homes; b) in contrast to the character of the neighborhood, the two new homes would be stacked behind each other; and, c) many beautiful, mature trees would be destroyed.

Respectfully, I request that the Board reject all the proposed variances. If the Board is inclined to allow any of the variances requested, though, at the very least I hope you require your approval to be accompanied by firm conditions that reduce the financial harm to the direct abutters, as well as the general intrusion on the land and surrounding environment. Specifically, I ask that you require as few trees and natural vegetation to be removed as possible. Such a provision should certainly include any and all trees not on the requested road/driveway and any trees and natural vegetation that are situated outside the designated house building envelopes shown on the subdivision plan. Moreover, please consider safety issues such as fire engine access to the rear building lot, along with the proper fire hydrants. I would also request specific language in any approvals you grant that no trees or vegetation on my abutting property are touched in any way. Developers have a habit of not paying attention to even clearly marked surveyor stakes---which I have installed. And please assure that there is full attention paid to the vast wetlands adjacent to the proposed rear lot.

Let me close by emphasizing that I am not against responsible development, as demonstrated by my offer to purchase and seek approval to develop both properties in 2016 without variances. I also welcomed the subdivision of the Alden property. In contrast, my view is that the proposal before you for 390 Grove is far from responsible. Not only would it change the current character of the neighborhood, but there would be an impact on the natural fauna who live here along with us fortunate humans. In a typical week, depending on the season, we see or hear deer, foxes, cayotes, rabbits, groundhogs, geese, turkeys, owls, hawks, large turtles, and dragonflies, along with a literal plethora of smaller birds, reptiles and mammals.

I expect to attend your scheduled public hearing on February 18th. Please feel free to ask me any questions at that time about the property surrounding 390 Grove Street, or the important historical significance of the entire Grove Street/Ridge Hill Farms/Sabrina Lake area. Should you have any questions for me in the interim, I may be reached directly at 617-726-7252 during business hours, or at my home number, which is 781-400-5654. I look forward to the meeting.

Thank you for your consideration.

Domenic Colasacco

February 11, 2020

Dear Planning Board Members:

Thank you again for allowing me to speak at the February 2nd meeting to discuss the proposed application for a subdivision of 390 Grove Street. As I mentioned at the meeting, my name is Jim Curley and I, along with my wife Katie, own 380 Grove (the direct abutter to the north of 390 Grove).

We moved into our current home last April after having lived for 19 years in Wellesley. One of the main reasons we bought this home was for its large lot and abundant privacy (including the protected reservation/wetlands behind our property). My wife and I each grew up in fairly rural areas of central Massachusetts and wanted to return to a sense of privacy and quiet as we settled into our forever home. After having moved in, we met with a few of our neighbors and learned that the son of the owner of 390 had been trying to sell that lot for several years, unsuccessfully, to builders/developers as a two-house subdivision. Upon learning this, myself and two other neighbors made an offer last Spring to buy the lot (as it exists today) for what we felt was a fair (if slightly above market value) price. We never received a response from the broker or owners. Instead, the Board now has a subdivision plan in front of it which attempts to cut many corners (through waivers of the applicable subdivision rules/regulations) in an effort to squeeze as much buildable space as possible into a non-conforming lot.

As I stated at the meeting, Grove Street in Needham, in my view, remains as one of Needham's premier, Estate-like areas with its long and deep history, large property lots with beautiful trees and green space and well-situated homes. It is an area that should be protected and preserved, with only new homes that add to, enhance or otherwise fit within the neighborhood. This plan and the lots it would create are the exact opposite. Therefore, if approved, this subdivision and the houses that ultimately will be built on it will, without a doubt, significantly devalue the surrounding property values. The plan and resulting lots will not support a builder/developer constructing two premium quality homes with abundant trees/green space/etc. This is a very important factor that I hope the Board weighs very carefully. In a town with as rich and long a history as Needham, and in an area that plays a very important part in that history (Baker Estates, Sabrina Lake, Ridge Hill Reservation), I believe it is imperative for a public body, such as this planning board, to be mindful and wary of the future impact a subdivision will have on the character and quality of a long-existing neighborhood. In my view, this subdivision will stick out like a sore thumb. For these reasons alone, I believe that the Board should deny the plan.

At the February 2nd meeting, the petitioner's attorney showed the Board a plan (specifically page 3 of 9 of the plan drawings) that he stated was an "as of right" plan for a subdivision. That, as I stated at the meeting, is simply false because that plan does not show a 4.5-foot sidewalk running on both sides of the proposed road (which is required by the subdivision bylaws). So, the Board has not, in fact, seen an "as of right" plan. There also remains an open question that I raised, and which was not answered by the petitioner or petitioner's attorney, as to whether one could even build that sidewalk on the north side of the property given the large tree that sits on my property border and theirs (and which I will not permit to be taken down). I walked the currently "staked" (I'm not actually sure who staked it) property line this past weekend and, I believe, that there is a

very strong possibility that the plan as provided to the Board is incorrect as to the actual property line and several other trees that are critical for the petitioner's current plan. I believe these trees may, in fact, touch my property line and, therefore, would not be able to be taken down. In fact, the plan drawings (in Note 7 on page 2 of 9) state that "**all boundary lines depicted are approximate only. MAI did not perform a boundary retracement survey.**" How can it be that a formal plan has been presented, where the removal of trees along a boundary is critical to the efficacy of the plan and the petitioner did not have an actual formal survey prepared to determine if they could even remove those trees? I strongly urge the Board to require the petitioner to have a formal boundary survey done, update the plan accordingly and resubmit such plan with their view of where the boundary lines actually lie.

However, as I also stated at the meeting, if the Board is of a mind to ignore the issues noted above, including the issues with the claimed "as of right" plan and boundary lines, and give out the requested waivers and approve the proposed plan, then I would respectfully request that the Board include in its decision/approval the **following conditions:**

1. Require that the current location of the "road" be moved, as shown on page 5 of 9 of the plan, from 11 feet from my border to at least 18 feet from my border (i.e., an additional 7 feet). Given that (a) I don't currently have a road running down the side of my property (and do not want one), and (b) petitioner has requested a waiver for sidewalks entirely, a waiver of the required 50 foot wide right of way and a waiver of the required 24 foot wide pavement, I believe that this is a very reasonable request that should be granted if any of these waivers are granted.
2. Require that a mature tree/shrub landscaping plan be reasonably agreed to in writing with me as a direct abutter with the stated goal of providing privacy from the road and the two new houses that will be facing my current home. The same reasoning in 1. above applies here (along with the fact that I don't currently have any houses looking into my kitchen window, back yard or master bedroom/bath, but will have 2 of them if the subdivision is approved and built). I believe that any other direct abutter would also want this as a condition. Additionally, given that the current plan appears to remove 10-15 existing mature trees, as well as many other numerous naturally occurring shrubs/etc., this request is also entirely consistent with Subdivision Rule 3.3.15.
3. Require that the tree that currently sits on both my property line and the 390-property line not be removed (by law they cannot remove it, but I would also like it in the plan). This is also entirely consistent with Rule 3.3.15 referenced above.
4. Permit the plan to use smaller, less intrusive (and less bright) streetlights (the last thing I want is to have my master bedroom/bath is to have a street light shining into it every night).
5. Require that the construction entrance be moved the same distance as the road (as per 1. above).
6. Require that the Filtermitt be moved off of my property line and at least 2-3 feet into the subject plot.
7. Not permit any "catch-all" or broad waivers (e.g., not permit that last waiver requested or anything similar).
8. Require "strict adherence" to the plan.
9. Not permit the plots to be release for sale until the plan has been completed.

In closing, I respectfully request that the Board deny all requested waivers and reject the plan entirely. If the Board is not of a mind to do that, then I respectfully request that the Board require the petitioner to conduct a formal boundary survey (as noted above) and resubmit a plan that shows actual boundary lines. If the Board is not of the mind to do even that, then I respectfully request that the Board includes each of the conditions I outlined above in any final approval of the plan.

I would be more than happy discuss any or all of this further by phone or in person. I would also be happy to host one or more members of the Board for a visit to my property for a “field-level” view of the issues/conditions raised above. I can be reached directly at 617-570-8186 or jcurley@goodwinlaw.com.

Best regards,



Jim Curley

James M. Curley



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Boston, MA 02210
o +1 617 570 8186
f +1 617 321 4705
JCurley@goodwinlaw.com | goodwinlaw.com

Alexandra Clee

From: David Kelley <dkelley@meridianassoc.com>
Sent: Tuesday, February 11, 2020 2:56 PM
To: Planning
Cc: Thomas Ryder; George Giunta Jr
Subject: 390 Grove Street - Definitive Subdivision Plan - Revisions
Attachments: 6036 Needham 02-10-2020 S&S.pdf

Dear Lee Newman and Thomas Ryder:

Please find attached herewith the revised definitive Subdivision Plans for the site at 390 Grove Street. The plans have been revised as follows:

Per Town of Needham Public Work Letter dated January 29, 2020:

- The plans have been revised to depict an appropriately sized culvert under the driveway for Lot 1;
- The size of the subsurface infiltration basins on Lots 1 and 2 have been revised to depict the sizes shown in the HydroCAD calculations;
- A Post-Construction Note was added to sheet 5 of the plan set that states: 'Stormwater management post construction inspection documents should include a note that if evidence of overflow into the Town's drainage system has occurred. Inspection documents should be available for the Town's NPDES coordinator to receive copies upon request.'

Per comments at the Planning Board Hearing on February 4, 2020:

- Parcel 'B' has been created in the rear of Lot 2 as a parcel to be deeded to the Needham Conservation Commission;
- One of the existing trees on the Northern property line has been noted as to remain and to be protected in place;
- A note has been added that the Filtermitt is to be installed one (1) foot south of the northern property line;

We look forward to meeting with you at your next meeting on Tuesday February 18, 2020.

Please review the attached materials and please let me know should you have any questions, comments or concerns.

David S. Kelley, PE

Senior Project Manager

500 Cummings Center, Suite 5950, Beverly, MA 01915

Office (978) 614-0653 / Cell (978) 265-5402

<http://www.meridianassoc.com> dkelley@meridianassoc.com

NOTES:

1. THE INFORMATION DEPICTED ON THIS PLAN HAS BEEN COMPILED FROM THE TOWN OF NEEDHAM GEOGRAPHIC INFORMATION SYSTEM.
2. LAND USE WITHIN 500 FEET OF THE SUBJECT PROPERTY IS PRIORLY SINGLE AND TWO FAMILY DWELLINGS.

FOR REGISTRY USE ONLY

**390 GROVE STREET
(ASSESSOR'S MAP 221 - LOT 9)
DEFINITIVE SUBDIVISION PLAN**

IN ACCORDANCE WITH SECTION 4.2 OF THE TOWN OF NEEDHAM ZONING BY-LAW

*LOCATED IN
NEEDHAM, MASSACHUSETTS*

DATE: JULY 20, 2018

REVISED: NOVEMBER 2, 2018

REVISED: MARCH 29, 2019

REVISED: JULY 12, 2019

REVISED: AUGUST 22, 2019

REVISED: OCTOBER 4, 2019

REVISED: FEBRUARY 7, 2020

RECORD OWNER:

ELISABETH SCHMIDT-SCHEUBER
390 GROVE STREET
NEEDHAM, MASSACHUSETTS 02492

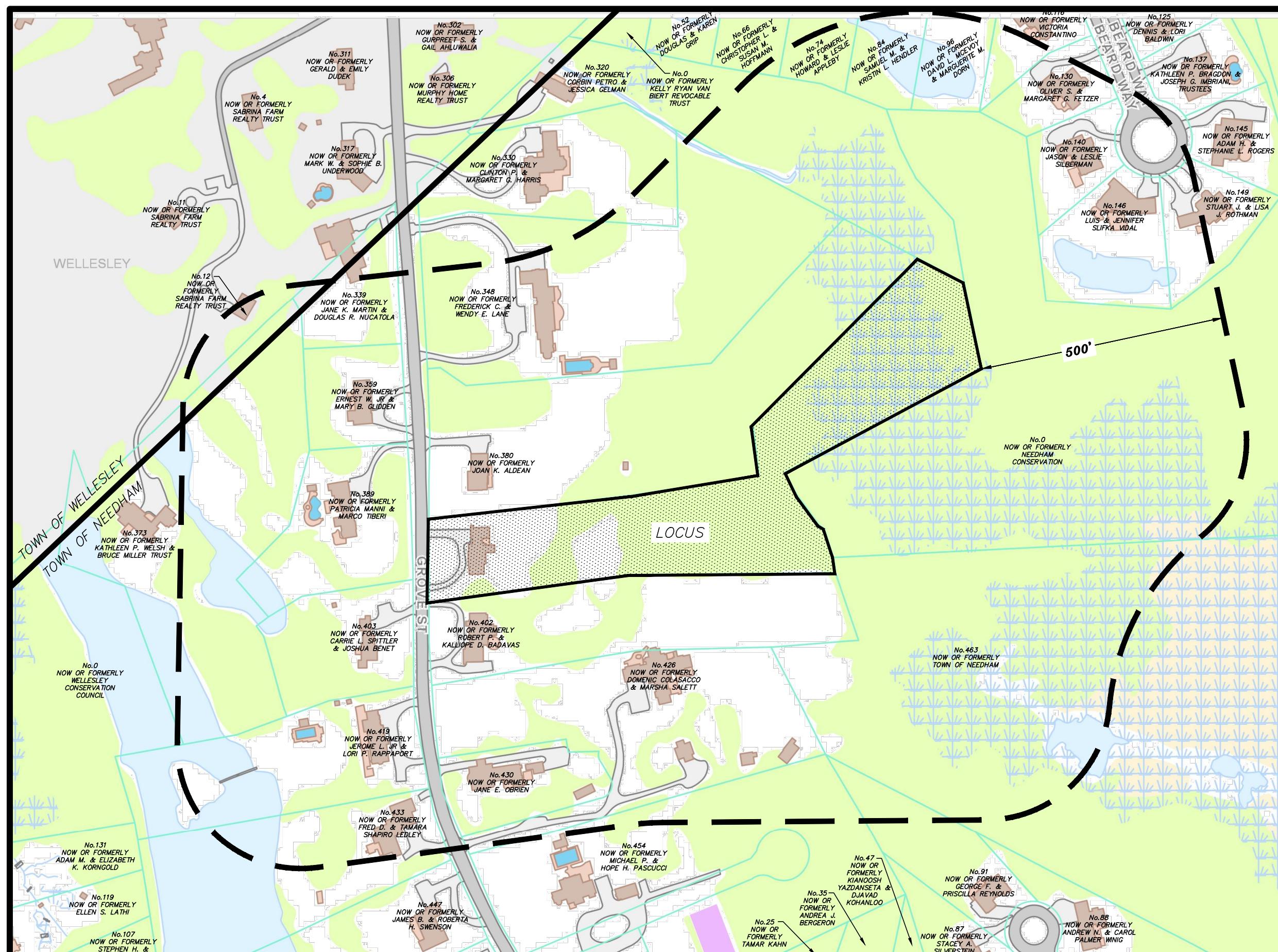
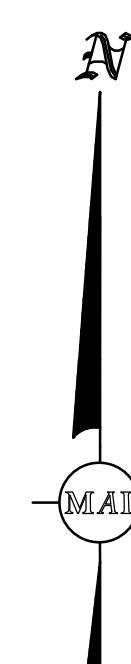
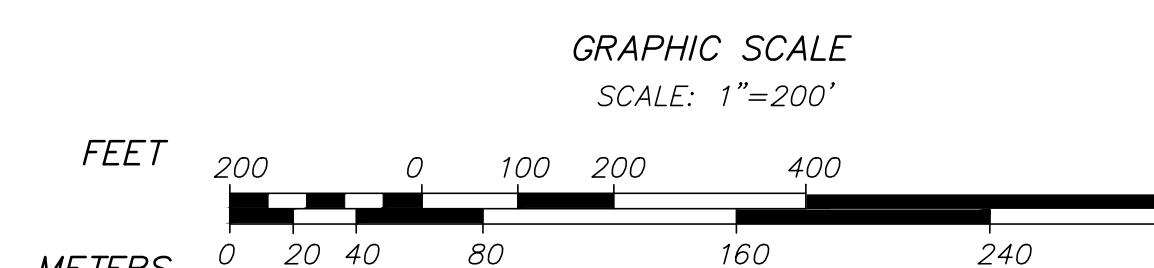
APPLICANT:

MORITZ SCHMIDT
390 GROVE STREET
NEEDHAM, MASSACHUSETTS 02492

PREPARED BY:

**MERIDIAN
ASSOCIATES**

500 CUMMINGS CENTER SUITE 5950 69 MILK STREET, SUITE 302
BEVERLY, MASSACHUSETTS 01915 WESTBOROUGH, MASSACHUSETTS 01581
TELEPHONE: (978) 299-0447 TELEPHONE: (508) 871-7030
WWW.MERIDIANASSOC.COM

**LOCUS CONTEXT MAP:****SCHEDULE OF DIMENSIONAL CONTROLS**

ZONING DISTRICT: SINGLE RESIDENCE A

REQUIREMENT	REQUIRED
LOT AREA:	43,560
FRONTAGE:	150 FT.
FRONT SETBACK:	30 FT.
SIDE SETBACK:	25 FT.
REAR SETBACK:	15 FT.
MAX STORIES:	2-1/2
MAX HEIGHT:	35 FT.
STREET DESIGNATION:	MINOR

APPROVAL IN ACCORDANCE WITH SECTION 81-U OF
CHAPTER 41 OF THE GENERAL LAWS AS AMENDED

TOWN OF NEEDHAM PLANNING BOARD

BY:

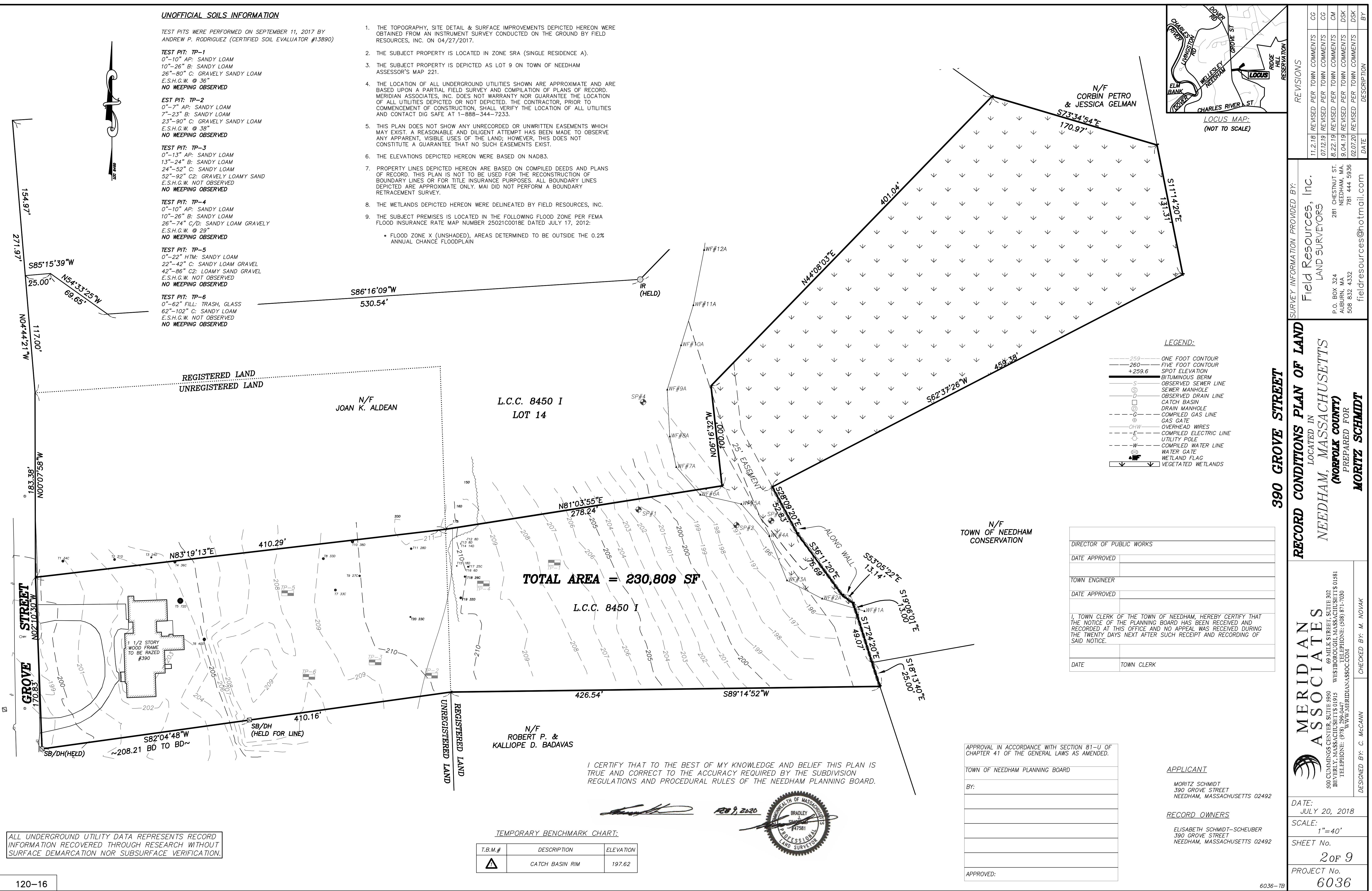
APPROVED:

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAN IS
TRUE AND CORRECT TO THE ACCURACY REQUIRED BY THE SUBDIVISION
REGULATIONS AND PROCEDURAL RULES OF THE NEEDHAM PLANNING BOARD.

REGISTERED CIVIL ENGINEER, PE

DRAWING INDEX:

SHEET 1	COVER SHEET & CONTEXT MAP
SHEET 2	RECORD CONDITIONS PLAN
SHEET 3	BY RIGHT SUBDIVISION PLAN
SHEET 4	LOTTING PLAN
SHEET 5	PROPOSED SITE & GRADING PLAN
SHEET 6	PROPOSED UTILITIES & PROFILE
SHEET 7	PROPOSED LANDSCAPE PLAN
SHEET 8	SITE DETAILS
SHEET 9	SITE DETAILS



UNOFFICIAL SOILS INFORMATION

TEST PITS WERE PERFORMED ON SEPTEMBER 11, 2017 BY
ANDREW P. RODRIGUEZ (CERTIFIED SOIL EVALUATOR #13890)

TEST PIT: TP-1 ELEV.=207.5
0"-10" AP: SANDY LOAM
10"-26" B: SANDY LOAM
26"-80" C: GRAVELY SANDY LOAM
E.S.H.G.W. @ 36"
E.S.H.G.W. ELEV.=204.5
NO WEEPING OBSERVED

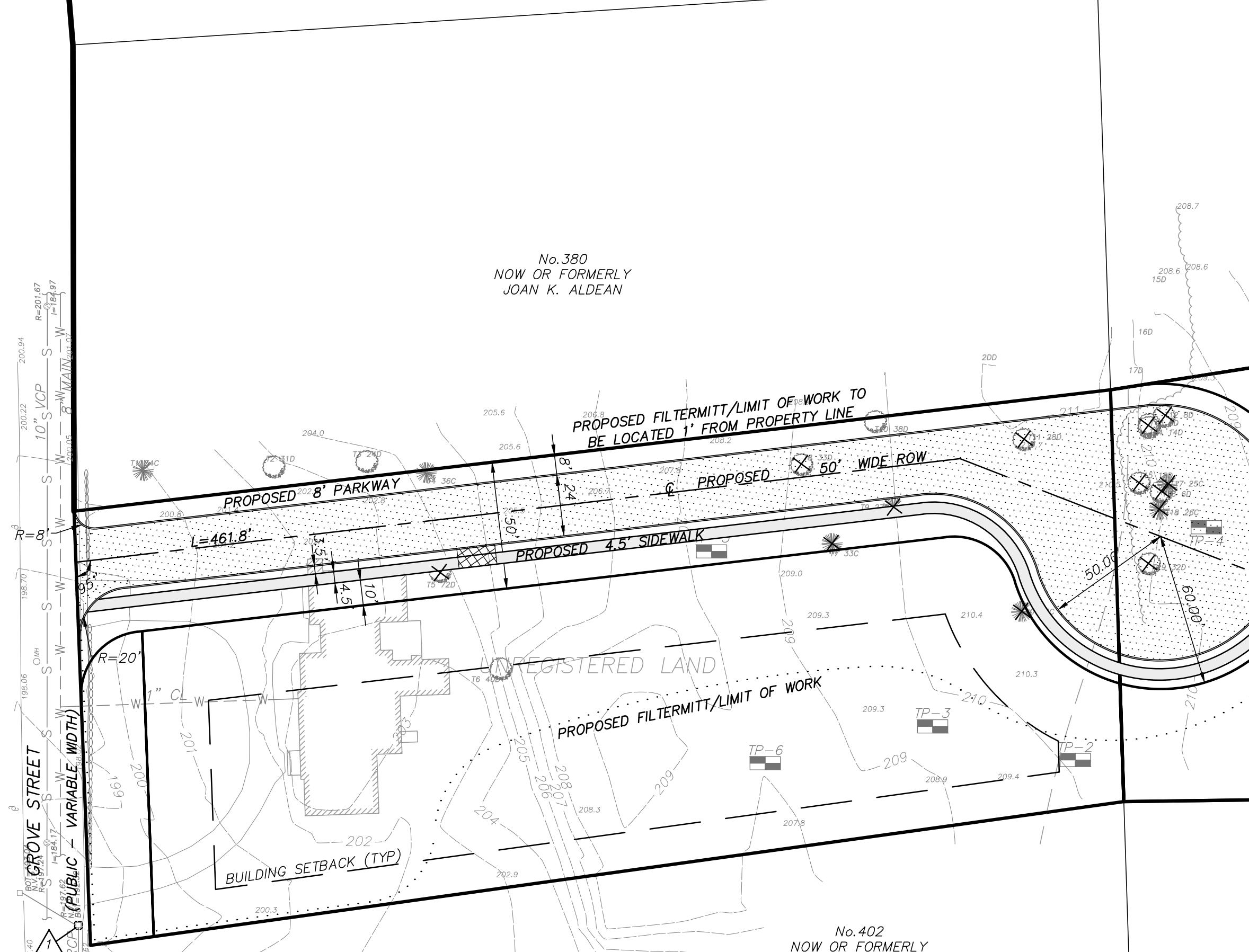
TEST PIT: TP-4 ELEV.=209.5
0"-10" AP: SANDY LOAM
10"-26" B: SANDY LOAM
26"-74" C/D: SANDY LOAM GRAVELY
E.S.H.G.W. @ 29"
E.S.H.G.W. ELEV.=207.1
NO WEEPING OBSERVED

TEST PIT: TP-2 ELEV.=210.1
0"-7" AP: SANDY LOAM
7"-23" B: SANDY LOAM
23"-90" C: GRAVELY SANDY LOAM
E.S.H.G.W. @ 38"
E.S.H.G.W. ELEV.=206.9
NO WEEPING OBSERVED

TEST PIT: TP-5 ELEV.=208.2
0"-22" HTM: SANDY LOAM
22"-42" C: SANDY LOAM GRAVEL
42"-86" C2: LOAMY SAND GRAVEL
E.S.H.G.W. NOT OBSERVED
E.S.H.G.W. ELEV.=199.7
NO WEEPING OBSERVED

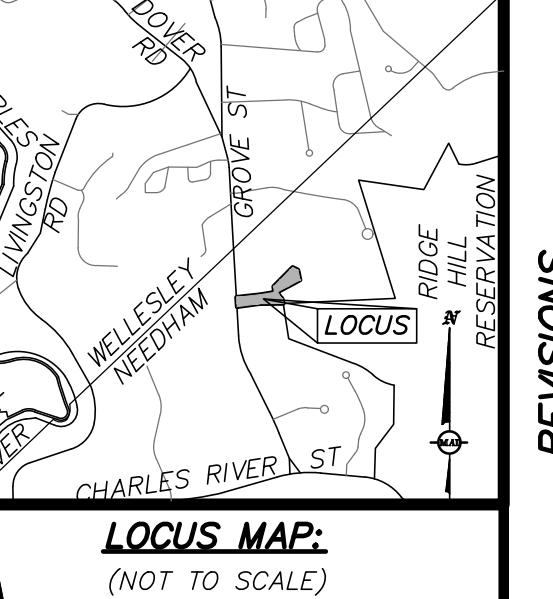
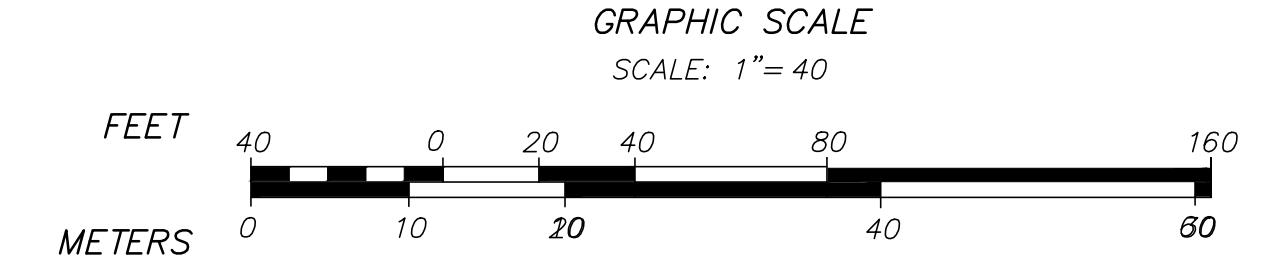
TEST PIT: TP-3 ELEV.=209.5
0"-13" AP: SANDY LOAM
13"-24" B: SANDY LOAM
24"-52" C: SANDY LOAM
52"-92" C2: GRAVELY LOAMY SAND
E.S.H.G.W. NOT OBSERVED
E.S.H.G.W. ELEV.=201.8
NO WEEPING OBSERVED

TEST PIT: TP-6 ELEV.=208.2
0"-62" FILL: TRASH, GLASS
62"-102" C: SANDY LOAM
E.S.H.G.W. NOT OBSERVED
E.S.H.G.W. ELEV.=199.7
NO WEEPING OBSERVED



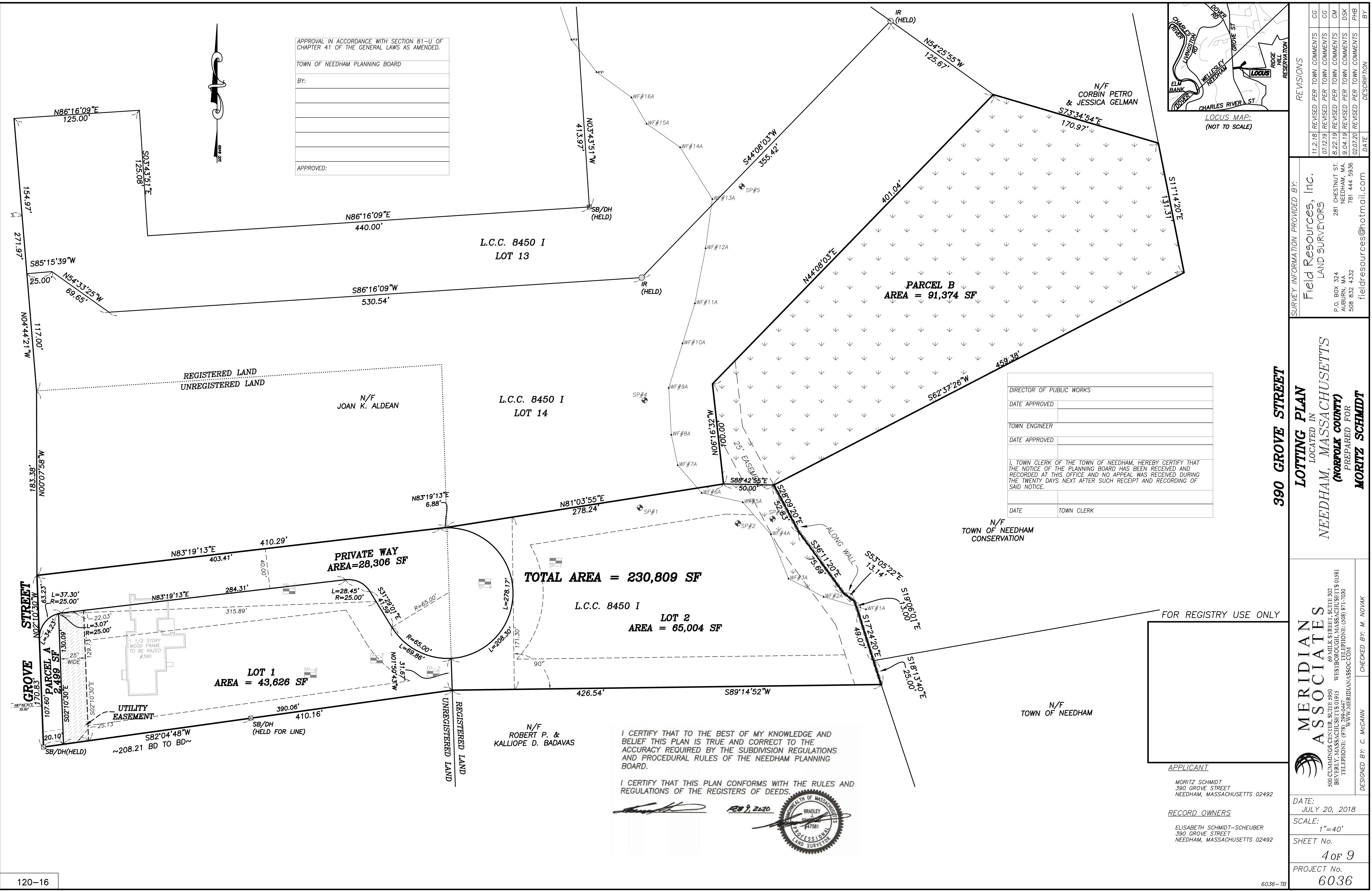
NOTES

- THE SUBJECT PROPERTY IS LOCATED IN ZONE SRA (SINGLE RESIDENCE A).
- THE SUBJECT PROPERTY IS DEPICTED AS LOT 9 ON TOWN OF NEEDHAM ASSESSOR'S MAP 221.
- THE LOCATION OF ALL UNDERGROUND UTILITIES SHOWN ARE APPROXIMATE AND ARE BASED UPON A PARTIAL FIELD SURVEY AND COMPILEMENT OF PLANS OF RECORD. MERIDIAN ASSOCIATES, INC. DOES NOT WARRANT NOR GUARANTEE THE LOCATION OF ALL UTILITIES DEPICTED OR NOT DEPICTED. THE CONTRACTOR, PRIOR TO COMMENCEMENT OF CONSTRUCTION, SHALL VERIFY THE LOCATION OF ALL UTILITIES AND CONTACT DIG SAFE AT 1-888-344-7233.
- THE SUBJECT PREMISES IS LOCATED IN THE FOLLOWING FLOOD ZONES PER FEMA FLOOD INSURANCE RATE MAP NUMBER 25021C001B6 DATED JULY 17, 2012:
 - FLOOD ZONE X (UNSHADED), AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN
- PER TOWN OF NEEDHAM 'TYPICAL PERMANENT TURNAROUND' DETAIL, PAGE 41 OF THE SUBDIVISION REGULATIONS AND PROCEDURAL RULES OF THE PLANNING BOARD, DATED 1993, "WALK MAYBE OMITTED BEYOND LAST DRIVEWAY ON EACH SIDE."



390 GROVE STREET

(BY RIGHT) SUBDIVISION PLAN		SURVEY INFORMATION PROVIDED BY: Field Resources, Inc. LAND SURVEYORS
LOCATED IN NEEDHAM, MASSACHUSETTS (NORFOLK COUNTY)		REVISIONS 11/2/18 REVISED PER TOWN COMMENTS CG 07/12/19 REVISED PER TOWN COMMENTS CG 07/22/19 REVISED PER TOWN COMMENTS CM 09/04/19 REVISED PER TOWN COMMENTS CM 02/07/20 REVISED PER TOWN COMMENTS DSK DATE: 02/07/20 DESCRIPTION: BY
PREPARED FOR MORITZ SCHMIDT		P.O. BOX 324 AUBURN, MA 508 832 4332 fieldresources@hotmail.com
<p>LEGEND</p> <ul style="list-style-type: none"> — 209 EXISTING CONTOUR — 208 PROPOSED CONTOUR — PROPOSED CONCRETE CURB — BUILDING SETBACK — WETLAND BUFFER — FILTERMITT/LIMIT OF WORK ■ TP-1 TEST PIT — APPROXIMATE EXISTING PROPERTY LINES ▲ WF WETLAND FLAG ▼ WETLAND FLAG — PROPOSED ROADWAY — PROPOSED SIDEWALK ■ PROPOSED DRIVEWAY APRON ■ PROPOSED SUBSURFACE INFILTRATION SYSTEM R= ROW TYP= TYPICAL L= LENGTH G= GB GRADE BREAK X= TREE TO BE REMOVED 		
<p>I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAN IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY THE SUBDIVISION REGULATIONS AND PROCEDURAL RULES OF THE NEEDHAM PLANNING BOARD.</p> <p>DAVID S. KELLEY CIVIL NO. 49369 REGISTERED CIVIL ENGINEER, PE</p> <p>DIRECTOR OF PUBLIC WORKS DATE APPROVED _____</p> <p>TOWN ENGINEER DATE APPROVED _____</p> <p>I, TOWN CLERK OF THE TOWN OF NEEDHAM, HEREBY CERTIFY THAT THE NOTICE OF THE PLANNING BOARD HAS BEEN RECEIVED AND RECORDED AT THIS OFFICE AND NO APPEAL WAS RECEIVED DURING THE TWENTY DAYS NEXT AFTER SUCH RECEIPT AND RECORDING OF SAID NOTICE.</p> <p>DATE TOWN CLERK _____</p> <p>APPROVAL IN ACCORDANCE WITH SECTION 81-U OF CHAPTER 41 OF THE GENERAL LAWS AS AMENDED.</p> <p>TOWN OF NEEDHAM PLANNING BOARD BY: _____</p> <p>APPLICANT MORITZ SCHMIDT 390 GROVE STREET NEEDHAM, MASSACHUSETTS 02492 DATE: JULY 20, 2018</p> <p>RECORD OWNERS ELISABETH SCHMIDT-SCHEUBER 390 GROVE STREET NEEDHAM, MASSACHUSETTS 02492 SCALE: 1"=40' SHEET No. 3 OF 9 PROJECT No. 6036</p>		



120-16

TYPICAL LOAM & SEED CROSS - SECTION (NOT TO SCALE)

PLANT SCHEDULE

QTY	SYM	LATIN NAME	COMMON NAME	SIZE	NOTES
TREES					
6	CC	Cercis canadensis	Eastern Redbud	8'-10' Ht. Clump B&B	DR N Pink Butterflies Showy Fall Color April
5	JV	Juniperus virginiana	Eastern Red Cedar	10'-12' Ht. B&B	DR DT N ST Blueish/Black Fruit Wildlife Evergreen
3	PG	Picea glauca	White Spruce	7'-8' Ht. B&B	DR N Birds/Small Mammals Evergreen Winter Interest
3	QR	Quercus rubra	Red Oak	3"-3.5" Cal. B&B	DR DT N ST Yellowish/Green Fall interest May
SHRUBS					
9	CA	Clethra alnifolia	Summersweet	24"-30" Ht. #3 Pot	N ST 48" OC White Butterflies Showy Fragrant Heavy Shade July-August
7	BY	Cornus sericea 'Bud's Yellow'	Bud's Yellow Redosier Dogwood	24"-30" Ht. #3 Pot	DR N ST 48" OC Yellow/White Birds/Butterflies Fall/Winter Interest May-June
16	AF	Cornus sericea 'Farrow Arctic Fire'	Arctic Fire Redosier Dogwood	24"-30" Ht. #3 Pot	DT N ST 36" OC White Birds/Butterflies Fall/Winter Interest May-June
28	IG	Ilex glabra 'Shamrock'	Shamrock inkberry	24"-30" Ht. B&B	DR DT N ST 36" OC Greenish-White Birds Evergreen May-June
7	VC	Vaccinium corymbosum 'Bluecrop'	Bluecrop Blueberry	24"-30" Ht. #5 Pot	DT N 48" OC White Showy Edible Fruit Wildlife Fall Color May
ORNAMENTAL GRASSES					
21	PV	Panicum virgatum 'Heavy Metal'	Heavy Metal Switchgrass	#3 Pot	DR DT N ST 24" OC Pink-Tinged Winter Interest July-February
PERENNIALS & GROUNDCOVER					
130	HM	Hemerocallis 'Apricot Sparkles'	Apricot Sparkles Daylily	#1 Pot	DR DT ST 24" OC Apricot Butterflies Showy May-October

ABBREVIATIONS:
B&B: BALL AND BURLAP
CAL: CALIPER
DR: DEER RESISTANT
DT: DROUGHT TOLERANT
N: NATIVE
OC: ON CENTER
ST: SALT TOLERANT

NOTE:
SPACE PLANTS EQUALLY TO PROVIDE CONSISTANT COVER OVER INDICATED PLANTING BED.

GROUNDCOVER PLANTING (NOT TO SCALE)

NOTES:
BACKFILL PLANTING HOLE WITH EXISTING SOIL AMENDED AS NECESSARY.
BACKFILL HALF THE SOIL AND WATER TO SETTLE OUT AIR POCKETS, COMPLETE BACKFILLING AND REPEAT WATERING.
IF ROOTS ARE CIRLING THE ROOTBALL EXTERIOR, CUT ROOTS VERTICALLY IN SEVERAL PLACES PRIOR TO PLANTING.
ONLY STAKE TREES SITUATED ON WINDY SITES OR EXPOSED TO SUBSTANTIAL PEDESTRIAN TRAFFIC.

TREE PLANTING (NOT TO SCALE)

NOTES:
BACKFILL PLANTING HOLE WITH EXISTING SOIL AMENDED AS NECESSARY.
BACKFILL HALF THE SOIL AND WATER TO SETTLE OUT AIR POCKETS, COMPLETE BACKFILLING AND REPEAT WATERING.
IF ROOTS ARE CIRLING THE ROOTBALL EXTERIOR, CUT ROOTS VERTICALLY IN SEVERAL PLACES PRIOR TO PLANTING.

SHRUB PLANTING (NOT TO SCALE)

PROPOSED LEGEND

- SHRUBS, PERENNIALS & GROUNDCOVERS
- EVERGREEN, SHADE & ORNAMENTAL TREES

LOCUS MAP: (NOT TO SCALE)

LANDSCAPE NOTES:

- ALL PLANT MATERIAL SHALL CONFORM TO THE MINIMUM GUIDELINES ESTABLISHED BY THE "AMERICAN STANDARD FOR NURSERY STOCK" PUBLISHED BY AmericanHort 2014 AND AS AMENDED.
- ALL PLANT MATERIALS SHALL BE GUARANTEED FOR ONE YEAR FOLLOWING DATE OF FINAL ACCEPTANCE.
- VERIFY LOCATIONS OF ALL EXISTING UTILITY LINES PRIOR TO PLANTING AND REPORT ANY CONFLICTS TO THE OWNER OR OWNER'S REPRESENTATIVE.
- PROVIDE TREES, SHRUBS, AND GROUNDCOVERS AS SHOWN AND SPECIFIED. THE WORK INCLUDES: SOIL PREPARATION, INSTALLATION OF TREES, SHRUBS AND GROUNDCOVERS, PLANTING MIXES, MULCH AND PLANTING ACCESSORIES, WARRANTY, WATERING AND MAINTENANCE DURING CONSTRUCTION AND WARRANTY PERIODS.
- BALLED AND BURLAPPED PLANTS MAY BE PLANTED IN THE SPRING FROM APRIL 1ST UNTIL JUNE 15TH AND IN THE FALL FROM AUGUST 15TH TO NOVEMBER 1ST.
- PLANTING PLAN IS DIAGRAMMATIC IN NATURE. FINAL PLACEMENT OF PLANTS TO BE APPROVED BY THE LANDSCAPE ARCHITECT IN THE FIELD.
- ALL SHADE TREES ALONG SIDEWALKS SHALL HAVE A MINIMUM SIX (6) FOOT BRANCHING HEIGHT.
- PLANT MATERIALS DEPICTED IN ROWS SHALL CONTAIN MATCHING PLANT SPECIMENS SPACED EQUALLY ALONG INDICATED AREA.
- ALL PLANT MATERIALS AND LAWN AREAS TO BE MAINTAINED BY LANDSCAPE CONTRACTOR UNTIL FINAL WRITTEN ACCEPTANCE PROVIDED TO CONTRACTOR BY OWNER OR OWNER'S REPRESENTATIVE.
- ALL PLANT MATERIALS TO REMAIN ALIVE AND BE IN HEALTHY, VIGOROUS CONDITION AND SHALL BE GUARANTEED FOR ONE YEAR FOLLOWING DATE OF FINAL WRITTEN ACCEPTANCE FROM THE OWNER OR OWNER'S REPRESENTATIVE.
- ALL PLANT MATERIALS ARE INTENDED TO BE DROUGHT TOLERANT ONCE ESTABLISHED. NO IRRIGATION SYSTEM IS PROPOSED.
- LOAM AND SEED ALL DISTURBED AREAS UNLESS OTHERWISE INDICATED ON PLAN. LOAM WITH TOPSOIL SPREAD TO A MINIMUM DEPTH OF (6) SIX INCHES.
- SEED OR PROVIDE SOD FOR ALL TURFGRASS LAWN AREAS WITH A DROUGHT TOLERANT TURFGRASS SEED MIX (80% TALL FESCUE, 10% PERENNIAL RYEGRASS, 10% KENTUCKY BLUEGRASS).
- PERENNIALS, BULBS AND ANNUALS ARE TO BE PLANTED IN A WELL PREPARED BED WHICH SHALL INCLUDE PEAT AND SLOW RELEASE FERTILIZER. BEDS SHALL BE SKIMMED WITH ONE AND ONE-HALF (1-1/2) INCH TO TWO (2) INCH MULCH (INCLUDING GROUNDCOVERS).

390 GROVE STREET

PROPOSED LANDSCAPE PLAN

LOCATED IN NEEDHAM, MASSACHUSETTS (NORPOLK COUNTY)

PREPARED FOR MORITZ SCHMIDT

SURVEY INFORMATION PROVIDED BY:

Field Resources, Inc.
LAND SURVEYORS
281 CHESTNUT ST.
NEEDHAM, MA 02492
781-444-5936
P.O. BOX 324
AUBURN, MA 01504
508-832-4332
fieldresources@hotmail.com

REVISIONS

11/2/18 REVISED PER TOWN COMMENTS CG
07/12/19 REVISED PER TOWN COMMENTS CG
8/22/19 REVISED PER TOWN COMMENTS CM
9/04/19 REVISED PER TOWN COMMENTS DSK
12/07/20 REVISED PER TOWN COMMENTS BY
DATE

APPROVALS

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAN IS TRUE AND CORRECT TO THE ACCURACY REQUIRED BY THE SUBDIVISION REGULATIONS AND PROCEDURAL RULES OF THE NEEDHAM PLANNING BOARD.

REGISTERED CIVIL ENGINEER, PE

DIRECTOR OF PUBLIC WORKS

DATE APPROVED

TOWN ENGINEER

DATE APPROVED

TOWN CLERK

APPROVAL IN ACCORDANCE WITH SECTION 81-U OF CHAPTER 41 OF THE GENERAL LAWS AS AMENDED.

TOWN OF NEEDHAM PLANNING BOARD

BY:

APPLICANT

MORITZ SCHMIDT
390 GROVE STREET
NEEDHAM, MASSACHUSETTS 02492

RECORD OWNERS

ELISABETH SCHMIDT-SCHEUBER
390 GROVE STREET
NEEDHAM, MASSACHUSETTS 02492

DESIGNED BY: C. McCANN

CHECKED BY: M. NOVAK

DATE: JULY 20, 2018

SCALE: 1"=20'

SHEET No. 7 OF 9

PROJECT No. 6036

6036-LAND

Alexandra Clee

From: Colasacco, Domenic <dominic@bostontrustwalden.com>
Sent: Friday, February 14, 2020 10:41 AM
To: Alexandra Clee
Cc: Colasacco, Domenic
Subject: FW: 390 Grove Street---Additional Comments by Direct Abutter

Dear Alexandra,

Please forward the additional comments outlined below to the Planning Board members.

Thank you,
Domenic Colasacco
426 Grove Street

Dear Planning Board Members:

I offer the following summary comments to the letter I wrote to you dated February 11, 2020.

- A) 390 Grove Street has been on the market at a price of \$2 million since the fall of 2016. It has not sold, in my view, because it is not worth that much as a single building lot. House lots in this area have sold for only about \$1 million, not \$2 million.
- B) If 390 Grove is sub-divided into two building lots, it is possible that the value of each lot will be close to \$1 million each. Personally, I doubt that will be the case because of the unconventional structure and position of the divided property: a sideways house and one house behind the other.
- C) Even if we assume the value of the two lots is \$1 million each, though, the current property is worth \$2 million LESS the cost of development.
- D) The owner of 390 Grove has, in essence, requested that you allow her to reduce the cost of creating two buildable lots by issuing a waiver that permits the construction more of a "driveway" rather than an "as of right road."
- E) If you do permit the subdivision plan as proposed, you may benefit the owner of 390, but you would no doubt hurt the surrounding owners. I do not see how that is fair in any way. There is also no question that by issuing such a waiver you would hurt the surrounding natural environment.
- F) I, along with a few neighbors, several months ago offered the owner of 390 Grove what we consider a fair compromise: we are prepared to purchase 390 Grove for the \$2 million asking price less the construction of an "as of right" road, which we estimate would be approximately \$500,000.
- G) If we are able to purchase 390 Grove, our plan would be to sell the front one acre or so of the land to a builder for the construction of a home that is consistent with the current character of the other homes on Grove Street. We are prepared donate the rear portion of 390 Grove to Ridge Hill Conservation, to which all of the rear portion of the property is contiguous.
- H) By denying any and all waivers, you would be aiding the path to a fair compromise between the owner of 390 Grove and the abutting neighbors. You would also be protecting the current environment and adding precious additional land to Conservation.

Thank you for your consideration.

Domenic Colasacco
426 Grove Street

Marsha C. Salett
95 Beard Way
Needham, MA 02492
msalett@gmail.com

February 18, 2020

Needham Planning Board
Needham, MA 02492
Attn: Alexandra Clee
aclee@needhamma.gov

Re: Pending Variance Request for 390 Grove Street

Dear Members of the Needham Planning Board,

I am opposed to Elizabeth and Moritz Schmidt-Scheuber's proposed subdivision of 390 Grove Street and strongly urge the Planning Board to reject all and any proposed variances and to keep the property a single-family lot.

I am co-owner of the property at 426 Grove Street, which abuts 390 Grove Street for approximately 400 feet on the north side of our lot. My objection to the project is based on my experience as a Teacher/Naturalist for Mass Audubon's Broadmoor Wildlife Sanctuary for 30 years and my experience on the Needham Conservation Commission for approximately 20 years.

As a long-term member of one of Needham's regulatory boards, I understand that sometimes it is difficult to strike a balance between the interests of environmental and zoning regulations and the interests of a property owner. In the case of 390 Grove Street, this is not the case. Granting the variance is poor development, poor stewardship of the land, and—small a project as this is—would set a terrible precedent for approving questionable subdivisions.

Rejecting the variance, however, does no damage to the owners' interests in any way. The property is not landlocked, so rejecting a variance for a road does not render it a nonbuildable lot, nor will rejecting the variance result in a taking or otherwise prevent the homeowners from profiting by selling. The amount of money the Schmidt-Scheubers want to make from selling the property is outside the consideration of the regulations.

Comparing this 2-lot subdivision plan with the 2-lot subdivision of the Alden property next door further substantiates the difference between acceptable and nonacceptable development. That property met all of the Town of Needham's development regulations, including having enough frontage on Grove Street. There was no need to put in a "road" that also will not meet Planning and Fire Department regulations. This part of Needham, contiguous to Ridge Hill Conservation Land, supports a wide range of wildlife, flora and fauna alike. The Alden property was developed in a way that minimized disturbance (as much as putting two huge homes on a large parcel where a smaller house stood can minimize such change) and is in

keeping with the current neighborhood and the historic remnants of the former Baker Estate of Ridge Hill Farms.

As an abutter to Ridge Hill and as a naturalist who walks the trails several times a week, I note all of the wildlife that our conservation land supports. The properties that abut Ridge Hill should not infringe upon its integrity, especially in cases where the back acres have been untouched and undeveloped for well over 100 years. The conifer plantation in the back of 390 Grove Street provides a solid buffer to the wetlands at the end of that property and to the wetlands of Ridge Hill past the gas easement boundary. Along with the resident chickadees, blue jays, cardinals, etc., this stand of conifers also supports Great Horned Owls, Barred Owls, Screech Owls, Red-tailed Hawks, Cooper's Hawks, and at least four species of woodpeckers.

Because there is no lawn, no structure, and no way even to bushwhack back there, the swamp and its inhabitants are well protected by the undeveloped acreage. For several years, there has been a Great Blue Heron rookery in the wetland, with 2-6 nests in the dead trees or nearby pines. Wood ducks, uncommon and shy, shelter and raise babies there. Pileated Woodpeckers (a fifth woodpecker species) have nested in there. Plus a number of migratory birds, including Common Yellowthroat warblers breed there in the summer. Whether this natural refugia for wildlife is privately owned or owned as part of Ridge Hill doesn't matter. However, a subdivision with two houses and a road will change the intrinsic nature of the property in a way that even one "McMansion" will not.

We have zoning and Wetland Protection Acts and Town bylaws to protect the nature and aesthetics of our town—what we want our neighborhoods to look like and how to balance development and the environment. We also have the ability to grant variances to ease hardship and make rational exceptions when necessary. For 390 Grove Street, a variance doesn't serve any purpose other to undermine the town's zoning laws and create a poor, unnecessary, and ugly exception.

Thank you for your consideration.

Sincerely,

Marsha C. Salett



RECEIVED TOWN CLERK
TOWN OF NEEDHAM, MA 02492

TOWN OF NEEDHAM

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

2020 FEB -6 PM 4:51

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

PLANNING

Theodora K. Eaton
Town Clerk
1471 Highland Avenue
Needham, MA 02492

February 6, 2020

RE: ANR Plan – 766 Chestnut Street, Needham, MA

Dear Ms. Eaton:

At its February 4, 2020 meeting, the Planning Board voted to accept the applicant's request to extend the action deadline for the Approval Not Required Plan, (application filed with your office on January 28, 2020) from February 18, 2020 to March 3, 2020.

A copy of the applicant's request as outlined in a letter from Robert T. Smart, Jr. to Lee Newman and dated February 6, 2020 is attached to this memo. The noted letter followed the applicant's verbal request which was given at the Planning Board meeting of February 4, 2020.

Should you have any questions regarding this matter, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman A.C.

Lee Newman
Director of Planning and Community Development

cc: Robert T. Smart, Jr.

ROBERT T. SMART, JR., ESQ RECEIVED TOWN CLERK
ATTORNEY AT LAW NEEDHAM, MA 02492
399 CHESTNUT STREET 2020 FEB -6 PM 4:51
NEEDHAM, MASSACHUSETTS 02492

TEL (781) 444-9344 FAX (781) 449-0242
E-MAIL bob@robertsmart.net WEBSITE www.robertsmart.net

By Hand and E-Mail
February 6, 2020

Needham Planning Board
500 Dedham Avenue
Needham, MA 02492

Re: 766 Chestnut Street, Needham

Dear Members of the Board:

We hereby agree to extend the action deadline for Planning Board action on the ANR application to March 3, 2020.

Very truly yours,



Robert T. Smart, Jr.

Cc: Koby Kempel
Joyce Hastings

ROBERT T. SMART, JR., ESQ.

ATTORNEY AT LAW

399 CHESTNUT STREET

NEEDHAM, MASSACHUSETTS 02492

TEL (781) 444-9344 FAX (781) 449-0242

E-MAIL bob@robertsmart.net WEBSITE www.robertsmart.net

By Hand and E-Mail
February 7, 2020

Needham Planning Board
500 Dedham Avenue
Needham, MA 02492

Re: 766 Chestnut Street, Needham

Dear Members of the Board:

The applicant, 766 Chestnut Street LLC, seeks the Board's endorsement on an "Approval Not Required" (ANR) plan, for two lots, under an exception from the definition of "subdivision" in G.L. Chapter 41, Section 81L, namely subsection (c) – a way in existence when the subdivision control law became effective, having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic ...". A copy of the full definition of "subdivision" in the statute is provided herewith.

At the Planning Board meeting on February 4, 2020, Bruce Eisenhut brought to the Board's attention two cases, Costanza & Bertolino, Inc. v. Planning Board of North Reading, 360 Mass. 677 (1971), and Poulos v. Planning Board of Braintree, 413 Mass. 359 (1992).

Costanza is not on point. In Costanza, the applicant obtained approval of a definitive subdivision plan, but failed to construct the ways and municipal services within two years as required by the decision. The applicant then sought approval of the plan under G.L. Chapter 41, Section 81P, on the basis that it did not show a subdivision. The applicant argued that the prior subdivision approval brought it within an exception to the definition of "subdivision" – namely subsection (b): "a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law", challenging the two-year construction requirement of the decision. The Court found said two-year requirement to be valid, and ruled that denial of the 81P endorsement was correct.

No argument was made in Costanza that that the exception from the definition of "subdivision" in subsection (c) – a way in existence when the subdivision control law became effective, having in the opinion of the Planning Board sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic ... – was applicable.

Poulos is not on point. The applicant proposed approval of an "Approval Not Required" (ANR) plan to divide property fronting on Liberty Street, a public way. The proposed lots were in fact not accessible from Liberty Street, due to grading issues and the existence of a 650 foot long guardrail. The Court found that the access by the frontage was "illusory in fact", due to the existence of the guardrail, and denied the requested endorsement.

The current application does not have the problem which the Poulos applicant did. There is no barrier between the 15 foot right of way and the two lots proposed by the applicant.

Copies of the Costanza and Poulos cases are provided herewith.

Very truly yours,



Robert T. Smart, Jr.

Cc: Koby Kempel
Joyce Hastings

"Recorded" shall mean recorded in the registry of deeds of the county or district in which the land in question is situated, except that, as affecting registered land, it shall mean filed with the recorder of the land court.

"Register of deeds" shall mean the register of deeds of the county or district in which the land in question, or the city or town in question, is situated, and, when appropriate, shall include the recorder of the land court.

"Registered mail" shall mean registered or certified mail.

"Registry of deeds" shall mean the registry of deeds of the county or district in which the land in question is situated, and, when appropriate, shall include the land court.

"Subdivision" shall mean the division of a tract of land into two or more lots and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be

erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.

"Subdivision control" shall mean the power of regulating the subdivision of land granted by the subdivision control law.



COSTANZA & BERTOLINO, INC. vs. PLANNING BOARD OF NORTH READING.

360 Mass. 677

September 16, 1971 - December 30, 1971

Middlesex County

Present: TAURO, C.J., CUTTER, REARDON, QUIRICO, & HENNESSEY, JJ.

A town planning board, in conditionally approving a subdivision plan, was authorized under G. L. c. 41, Section 81U, to impose a provision for automatic rescission of the approval upon the applicant's failure to construct ways and install municipal services within a time specified in a covenant for their construction made by him under Section 81U (2). [680-681] Where approval of a subdivision plan by a town planning board was automatically rescinded because of the applicant's failure to fulfill his obligations under a covenant to construct ways and install municipal services, a successor in title to a tract consisting of some of the lots shown on that plan was not entitled to have the board indorse "approval under the subdivision law not required" pursuant to G. L. c. 41, Section 81P, on a later plan of such tract submitted to the board by the successor where such tract constituted a "subdivision" because, after the rescission of the approval of the earlier plan, the lots on the successors' plan lacked "frontage on . . . a way shown on a plan theretofore approved" within (b) of G. L. c. 41, Section 81L, as amended through St. 1965, c. 61, and were not within (a) or (c) of Section 81L. [678-681]

BILL IN EQUITY filed in the Superior Court on April 25, 1969.

The suit was heard by Tomasello, J.

Walter G. Bilowz, Town Counsel, for the defendant.

Eugene L. Tougas, for the plaintiff, submitted a brief.

HENNESSEY, J. This is an appeal brought under the provisions of the Subdivision Control Law, G. L. c. 41, Sections 81K to 81GG. Pursuant to the provisions of G. L. c. 41, Section 81P, the plaintiff, on April 3, 1969, submitted to the defendant a plan (hereinafter referred to as the Costanza plan) and requested that it be indorsed, "Approval Under the Subdivision

Control Law is Not Required." On that day, the planning board by a vote of its members declined to make the indorsement. The plaintiff appealed the action of the board to the Superior Court under G. L. c. 41, Section 81BB. After a trial and a report of material facts, a final decree was entered declaring the vote of April 3, 1969, null and void, ordering the board to expunge the vote from its records and further ordering the board to indorse the plan as requested by the plaintiff. The defendant appeals from this final decree.

1. The sole issue before us is whether the planning board exceeded its authority in declining to make the requested indorsement. The judge found that the indorsement was refused because the plan constituted a subdivision. Section 81P of c. 41, as amended through St. 1963, c. 363, Section 1, provides, in relevant part, that "if the board finds that the plan does not require such approval, it shall . . . endorse thereon . . . 'approval under the subdivision control law not required' . . . *Such endorsement shall not be withheld unless such plan shows a subdivision*" (emphasis supplied). It is clear from the statute that, if the Costanza plan does, in fact, constitute a subdivision, the action of the planning board was correct and the decree must be reversed.

"Subdivision" as that term is used throughout the Subdivision Control Law is defined in G. L. c. 41, Section 81L, as amended through St. 1965, c. 61, and means "the division of a tract of land into two or more lots and shall include resubdivision . . ." The section further states that "the division of a tract of land into two or more lots shall not be deemed . . . a subdivision . . . if . . . every lot within the tract so divided has frontage on . . . (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law."

[Note 1] The judge found that

Page 679

the Costanza plan consisted of a portion of lots shown on a definitive plan approved and indorsed by the planning board in 1960. The lots shown on such portion of this earlier plan (hereinafter referred to as the Lucci plan) and the lots shown on the Costanza plan were found to be identical. Robin Road, a proposed private way, is exhibited on both plans. The plaintiff argues that this prior approval brings it within the terms of clause (b) in G. L. c. 41, Section 81L.

On September 8, 1960, Italo Lucci submitted a definitive plan to the planning board showing eighty-four lots. After a hearing on the plan, the board voted its approval thereon on November 3, 1960. The members of the board signed the plan on February 16, 1961, and it was recorded in Middlesex South registry of deeds on March 24, 1961. The plan was indorsed with the words, "Conditionally approved in accordance with G. L. Chap. 41 -- Sec. 81U, as shown in agreement, recorded herewith." The agreement referred to was a covenant executed January 9, 1961, by Lucci. The covenant provided, among other things, that "The construction of all ways and the installation of all municipal services shall be completed in accordance with the applicable rules and regulations of the Board within a period of two (2) years from date. Failure to so complete shall automatically rescind approval of the plan." On March 15, 1962, a second covenant was executed by Lucci containing provisions identical with those in the earlier covenant. On the basis of this second covenant the date for completion of the ways and installation of the services was extended to March 15, 1964. Just one week after executing this second covenant, Lucci sold to the plaintiff the lots appearing on the Costanza plan.

The Subdivision Control Law is a comprehensive statutory scheme designed for the safety, convenience and welfare of the inhabitants of the cities and towns. *Gordon v. Robinson Homes, Inc.* 342 Mass. 529, 531. It accomplishes this purpose by, among other things, "regulating the laying out and construction of ways in subdivisions providing access to the several lots therein . . . [and by] securing

Page 680

adequate provision for water, sewerage, drainage [and] underground utility services . . ." G. L. c. 41, Section 81M, as amended. General Laws c. 41, Section 81U, is designed to further the overall purposes of the statute. That section as it existed at the time that the Lucci plan was submitted provided that "Before approval of a plan, a planning board shall require provision for the construction of ways and the installation of municipal services in accordance with the rules and regulations of said board, such construction and installation to be secured by one, or in part by one and in part by the other, of . . . [two methods, (1) a bond or deposit, and (2) a covenant] which method may be selected and from time to time varied by the applicant."

The plaintiff does not dispute the fact that it took the land subject to the Lucci covenant requiring the construction of ways and the installation of municipal services. It does claim, however, that the two-year time limitation within which the work must be completed and the provision for the automatic rescission of the approval for failure to so complete within that time are invalid. We do not agree. The Subdivision Control Law requires the local planning board to provide for ways and services. G. L. c. 41, Section 81U. The execution of a covenant running with the land is specifically authorized. G. L. c. 41, Section 81U. *Stoner v. Planning Bd. of Agawam*, 358 Mass. 709 , 715. A requirement in a covenant fixing the time within which the work must be completed is, in our view, consonant with the purposes of the law. We believe that the authority for imposing such a time limit contained in the section of the statute concerned with securing performance by bond or deposit is equally applicable to the covenant portion of the statute. [Note 2] A contrary result would impose a potentially

Page 681

greater burden on applicants who secure performance by bond or deposit than on those who execute covenants. The Legislature could not have had this difference in result in mind when it enacted Section 81U. We also believe that a provision for automatic rescission where the initial approval was not final but rather conditional is within the board's authority. [Note 3] In *Companelli, Inc. v. Planning Bd. of Ipswich*, 358 Mass. 798 , we held that the local planning board could rely on and enforce the provisions of a "conditional approval agreement" which limited the duration of the board's approval to the earliest of three dates. Furthermore, the Campanelli case holds that where a successor in title to the covenantor purchases land which had been conditionally approved with knowledge thereof and where no appeal was taken from the conditional approval, the successor in title will not be heard to question the validity of the conditional approval.

In the case at bar, no evidence was received at the trial which indicated that the provisions of the covenants (the completion of ways and installation of services within two years from the date of the last covenant) were satisfied. [Note 4] That being the case, the conditional approval of the Lucci plan was not in effect at the time that the plaintiff submitted the Costanza plan in 1969. Since the latter plan was a "division of a tract of land into two or more lots," G. L. c. 41, Section 81L,

and none of the exceptions is applicable, it constitutes a "subdivision" and the board was within its authority in refusing to indorse it as requested by the plaintiff. The final decree must be reversed.

Page 682

2. The defendant has also argued that the Lucci plan was erroneously approved because it was governed by the provisions of a newly approved by-law requiring greater area and frontage requirements. The new by-law became effective between the time that the Lucci plan was submitted to the board and the time that it was approved by the board. See Doliner v. Planning Bd. of Millis, 343 Mass. 1; Ward & Johnson, Inc. v. Planning Bd. of Whitman, 343 Mass. 466. In view of what we have said above, we need not decide whether the defendant's argument is correct on this issue.

3. The final decree is reversed. A new final decree is to enter declaring that the board was within its authority in refusing to indorse the plan and that no modification of its decision is required.

So ordered.

FOOTNOTES

[Note 1] The other two exceptions contained in G. L. c. 41, Section 81L, viz. every lot having frontage on (1) a public way or (2) a way in existence when the Subdivision Control Law became effective in the city or town in which the land lies, are not applicable in this case.

[Note 2] General Laws c. 41, Section 81U (1), as amended through St. 1958, c. 377, Section 1, provides, in part, that "By a proper bond or a deposit . . . to secure performance of the construction of ways and the installation of municipal services . . . and the planning board may require that the time be specified within which such construction and installation shall be completed" (emphasis added). Section 81U (2) dealing with securing performance by covenant does not contain a provision similar to the one emphasized above.

[Note 3] We recognize that rescission of an unconditionally approved plan is governed by G. L. c. 41, Section 81W, including the protections for grantees which are therein incorporated by reference. Nevertheless Section 81U (2) also provides sufficient safeguards for the grantee of any lot which is subject to a conditional approval and

automatic rescission. See *Selectmen of Pembroke v. R. & P. Realty Corp.* 348 Mass. 120 , 128-129; *Kay-Vee Realty Co. Inc. v. Town Clerk of Ludlow*, 355 Mass. 165 , 170.

[Note 4] The plaintiff brings to our attention by way of a footnote in its brief the fact that it has begun certain phases of the construction and installation required by the covenants. Such information is of no avail to the plaintiff, however, because (1) no such evidence was received at the trial, (2) partial performance does not satisfy the terms of the covenants, and (3) the time limit for performance has expired.

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GORDON N. POULOS, trustee, [Note 1] VS. PLANNING BOARD OF BRAINTREE.

413 Mass. 359

February 5, 1992 - August 13, 1992

Suffolk County

Present: LIACOS, C.J., NOLAN, LYNCH, O'CONNOR, & GREANEY, JJ.

Where the existence of a guardrail installed on a public way between the way and the downward slope of a parcel of land owned by the plaintiff prevented "present" adequate access from the way to each of the plaintiff's lots in a proposed division of the parcel, the plaintiff was not entitled to have the plan of the parcel endorsed "approval under the subdivision control law not required," under the provisions G. L. c. 41, Sections 81L and 81M. [361-362]

CIVIL ACTION commenced in the Land Court Department on January 17, 1989.

The case was heard by Robert V. Cauchon, J.

After review by the Appeals Court, the Supreme Judicial Court granted leave to obtain further appellate review.

Arthur A. Smith, Jr., Town Counsel, for the defendant.

Howard P. Speicher for the plaintiff.

O'CONNOR, J. The plaintiff owns a parcel of land on Liberty Street, a forty foot wide paved public way, in the town of Braintree. He proposes to divide his property into twelve lots, each of which contains at least fifty feet of frontage on Liberty Street as required by Braintree's zoning by-law. General Laws c. 41, Section 81O (1990 ed.), provides that no one may subdivide land in a town in which the subdivision control law, G. L. c. 41, Sections 81K-81GG (1990 ed.), is in effect, as it is in Braintree, without first submitting a plan of the

proposed subdivision to the town's planning board for its approval, and receiving it. Chapter 41, Section 81P, provides, however, that anyone planning to divide his or her property and who "believes that his plan does not require approval under the subdivision control law, may submit his plan to the planning board . . . and, if the board finds that the plan does not require such approval, it shall . . . endorse thereon . . . the words 'approval under the subdivision control law not required' or words of similar import . . . Such endorsement shall not be withheld unless such plan shows a subdivision." In this case, the plaintiff submitted a plan to the planning board of Braintree (board) under c. 41, Section 81P, and requested the board to endorse on it that the board's approval is not required. The board declined to provide the requested endorsement because of "lack of definition of proper access," and the plaintiff appealed to the Land Court pursuant to G. L. c. 40A, Section 17 (1990 ed.), and G. L. c. 41, Section 81BB.

After trial, a judge in the Land Court decided that the planning board had exceeded its authority in refusing the requested endorsement. He annulled the board's decision and remanded the matter to the board with instructions that the board endorse the plan as requested. The board appealed and, by a memorandum and order under its rule 1:28, the Appeals Court reversed. We allowed the plaintiff's application for further appellate review. We agree with the Appeals Court, and we reverse the decision of the Land Court judge.

The judge found that "[t]here is a guardrail located within the Liberty Street right of way, approximately seven feet from the boundary of the [plaintiff's land]. As shown on the Lot Division Plan, this guardrail extends from a railroad bridge at the southeasterly corner of [the property], and runs northerly for about 650 feet along Lots No. 1 through 8. It ends approximately midway across the frontage of Lot No. 8. . . . The State Department of Public Works ('State DPW') installed the guardrail on Liberty Street due to the existence of a downward slope between such street and portions of [the property]. It is the policy of the State DPW to remove guardrails when the reason for their installation has been extinguished

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. . . . Neither state nor local approval would be required for [the plaintiff] to regrade [the property], so as to fill the aforesaid slope. An Order of Conditions

authorizing such filling and construction has been issued to [the plaintiff] by the Braintree Conservation Commission."

In annulling the planning board's decision, the Land Court judge reasoned essentially as follows. General Laws c. 41, Section 81L, provides that "the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on . . . a public way . . . of at least such distance as is then required by zoning or other ordinance or by-law if any." In addition, the judge recognized that this court and the Appeals Court, construing c. 41, Sections 81L & 81M together, have concluded that, in addition to frontage requirements being met, an endorsement that "approval under the subdivision control law is not required" is inappropriate unless there is "adequate access" from the public way to each of the proposed lots. See *Gifford v. Planning Bd. of Nantucket*, 376 Mass. 801, 807 (1978); *Perry v. Planning Bd. of Nantucket*, 15 Mass. App. Ct. 144, 150-151 (1983). The judge was satisfied that there was adequate access from Liberty Street to the several lots. He concluded that "neither the slope nor the guardrail constitutes an insurmountable impediment to a finding that adequate access from Liberty Street to the lots [was] present [because] there [was] no impediment to [the plaintiff's] filling and regrading the property, which action [would] result in the removal of the slope, and hence the extinguishment of any need for the guardrail."

Planning boards may properly withhold the type of endorsement sought here when the "access implied by the frontage is . . . illusory in fact." *Corcoran v. Planning Bd. of Sudbury*, 406 Mass. 248, 251 (1989), quoting *Fox v. Planning Bd. of Milton*, 24 Mass. App. Ct. 572, 574 (1987). The plaintiff argues that the access is not illusory in this case because, as the judge determined, the plaintiff could regrade the slope, and regrading would result in the DPW's removal

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of the guardrail, which would no longer be needed. The plaintiff also argues that, subject to reasonable restrictions, he has a common law right of access from the public way to his abutting lots that would require the DPW to remove the guardrail

if it were not to do so voluntarily. See *Anzalone v. Metropolitan Dist. Comm'n*, 257 Mass. 32, 36 (1926).

We conclude, as did the Appeals Court, that c. 41, Sections 81L & 81M, read together, do not permit the endorsement sought by the plaintiff in the absence of present adequate access from the public way to each of the plaintiff's lots. It is not enough that the plaintiff proposes to regrade the land in a manner satisfactory to the DPW and that the DPW may respond by removing the guardrail. In an analogous situation, the Appeals Court upheld the refusal of a planning board to issue an "approval not required" endorsement where the public way shown on the plan did not yet exist, even though the town had taken the land for future construction of a public street. The Appeals Court concluded that public ways must "in fact exist on the ground" to satisfy the adequate access standard of c. 41, Section 81M, *Perry v. Planning Bd. of Nantucket*, *supra* at 146, 150-151. While *Perry* dealt with nonexistent public ways, and this case deals with nonexistent ways of access, the principle is the same. There should be no endorsement in the absence of existing ways of access.

In addition, we reject the argument, based on *Anzalone v. Metropolitan Dist. Comm'n*, *supra*, that, at least after regrading, the plaintiff would have a common law right of access that would entitle him to the requested endorsement. It is not a right of access, but rather actual access, that counts. In *Fox v. Planning Bd. of Milton*, *supra* at 572-573, the Appeals Court held that abutting lots had adequate access to a Metropolitan District Commission (MDC) parkway, not merely because the abutter possessed a common law right of access, but because, in addition, the MDC had granted the landowner a permit for a common driveway to run across an MDC green belt bordering the parkway. In the present case, the plaintiff has not received such an approval.

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The judgment is vacated. The case is remanded to the Land Court for the entry of a judgment affirming the board's decision.

So ordered.

FOOTNOTES

[Note 1] Of Plain Street Realty Trust.

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**TOWN OF NEEDHAM
CONSERVATION COMMISSION
Public Services Administration Building
500 Dedham Avenue
Needham, MA 02492**

TEL: (781) 455-7550 x248
FAX: (781) 453-2510

February 5, 2020

Mr. Koby Kempel
766 Chestnut Street
Needham, MA 02492

RE: Notice of Enforcement Order
766 Chestnut Street

Dear Mr. Kempel,

At their meeting on January 23, 2020, the Needham Conservation Commission voted to issue an Enforcement Order under the authority of the Massachusetts Wetlands Protection Act (Ch. 131, S. 40) and the Town of Needham Wetlands Protection Bylaw (Article 6). The Enforcement Order is issued for unauthorized alterations to Buffer Zone of a Bordering Vegetated Wetland, including vegetation clearing and expansion of lawn area.

As stated in the Enforcement Order, the Property Owner shall submit a Notice of Intent application (see attached) to the Commission for the un-permitted tree removal, shrub removal and lawn expansion. The submittal shall include a planting plan. The Notice of Intent shall be submitted to the Conservation Office no later than April 2, 2020 at 10:00AM. Failure to submit by the required deadline may result in the issuance of fines.

If you have any questions regarding this letter, please contact the Conservation Department at (781) 455-7550 x 248.

Sincerely,
NEEDHAM CONSERVATION DEPARTMENT

Debbie Anderson

Debbie Anderson
Director of Conservation

Enclosure (2)

CC: MassDEP – Northeast Regional Office
Needham Building Department
Needham Planning Department



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



A. Violation Information

This Enforcement Order is issued by:

Needham
Conservation Commission (Issuing Authority)

February 5, 2020
Date

To:

Koby Kempel
Name of Violator
766 Chestnut Street, Needham, MA, 02492
Address

1. Location of Violation:

Property Owner (if different)

766 Chestnut Street

Street Address

Needham

City/Town

204

Assessors Map/Plat Number

02492

Zip Code

6

Parcel/Lot Number

2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Unauthorized removal of vegetation (trees and shrubs) and the expansion of lawn area within the buffer zone to Bordering Vegetated Wetlands, in violation of both the MA Wetlands Protection Act Regulations (310 CMR 10.00) and the Needham Wetlands Protection Bylaw Regulations (Section 6).

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

- the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

B. Findings (cont.)

- the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name _____

Dated _____

File Number _____

Condition number(s) _____

- The Order of Conditions expired on (date): _____ Date _____

- The activity violates provisions of the Certificate of Compliance.

- The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

- Other (specify):

C. Order

The issuing authority hereby orders the following (check all that apply):

- The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.
 Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.
 A restoration plan shall be filed with the issuing authority on or before _____ April 2, 2020 _____ Date _____

for the following:

As part of the Notice of Intent application, a Buffer Zone Restoration Planting Plan with 2:1 replacement of the removed trees, consisting of native, non-cultivar species, is required.

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

C. Order (cont.)

- Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

April 2, 2020

Date

for the following:

The After-the-Fact Notice of Intent submittal is required for the un-permitted removal of trees and shrubs, as well as, the expansion of lawn within the 100-foot Buffer Zone to Bordering Vegetated Wetlands.

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

- The property owner shall take the following action (e.g., erosion/sedimentation controls) to prevent further violations of the Act:
-
-
-

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Debbie Anderson, Director of Conservation

Name

781-455-7550 x248

Phone Number

8:30am-5:00pm, Monday through Friday

Hours/Days Available

Issued by:

Needham

Conservation Commission

Conservation Commission signatures required on following page.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

Debra Anderson, Director of Conservation

Signature of delivery person or certified mail number

ROBERT T. SMART, JR., ESQ.

ATTORNEY AT LAW

399 CHESTNUT STREET

NEEDHAM, MASSACHUSETTS 02492

TEL (781) 444-9344 FAX (781) 449-0242

E-MAIL bob@robertsmart.net WEBSITE www.robertsmart.net

E-Mail and Mail
February 16, 2020

Needham Planning Board
500 Dedham Avenue
Needham, MA 02492

Re: 766 Chestnut Street, Needham

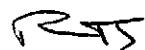
Dear Members of the Board:

It is requested that this matter, currently scheduled for discussion on February 18, 2020, be postponed to the Board's March 17, 2020 meeting. The ANR plan note revisions have not yet been finalized.

The applicant hereby agrees to extend the action deadline on the ANR application to March 24, 2020.

Please confirm the extension.

Very truly yours,



Robert T. Smart, Jr.

Cc: Koby Kempel

Section of Minutes where Self Storage at 77 Charles Street last discussed is highlighted below

NEEDHAM PLANNING BOARD MINUTES

October 22, 2019

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, October 22, 2019, at 7:00 p.m. with Mr. Alpert and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

ANR Plan – Boston Ventures International, LLC, Petitioner (Property located at 23 Dwight Road, Needham, MA).

Robert Bibbo, Engineer for Bibbo Bros., stated the applicant is creating an additional house lot with 170 feet of frontage and 16,000 square feet of area. The current house will remain on one lot with 27,000 square feet of land. Both lots have adequate frontage and meet all setback requirements. He noted this is a private road. Mr. Jacobs stated the side yard setback is 14 feet. The A1 lot line is 12.43 feet from the deck. Mr. Bibbo stated he was told there is a provision for the deck to go into the side yard setback. If this is not correct, he can change it. Ms. Newman noted there is a provision and the Building Inspector has looked at this.

Ms. McKnight asked if this was an older house the applicant is saving. Mr. Bibbo noted it is a 1950s house. Mr. Jacobs asked why Lot 2-A is not shown in the table. Mr. Bibbo stated it was on but he was told to remove it. Ms. Newman stated, as an empty lot, it makes no sense showing it with setbacks. Engineering and the Building Inspector are fine with it.

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

VOTED: to endorse the plan as Approval Not Required.

Decision: Amendment: Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Original Petitioner (current owners: Hillcrest Development, Inc., and Elite Homebuilders, LLC), (Property located at Rockwood Lane consists of the dwellings currently numbered 38, 45, 46, 52, 55, 58, 63, 64 and 69 Rockwood Lane and one adjacent parcel, Needham, MA, Assessors Plan No. 17 as Parcels 71, 72, 73, 79 and 80 and Plan No. 20 as Parcels 86, 87, 88, 89 and 63),

Ms. Newman stated the draft decision is based on the Board's last meeting. The attorney for the applicant has reviewed it and has no issue. There were no changes at the last meeting. Mr. Jacobs asked if there was an issue with adding a paragraph saying "The Board has been concerned, specifically by Exhibit 18 and 19, that the drainage solution is at least as good as that which was originally approved." Mr. Alpert disagreed. He does not want to say that. The Board is relying on representation from the Town Engineer that is the case. Mr. Jacobs felt the Board could say "relying on Exhibits 18 and 19, the Board hereby approves" at the beginning of paragraph 1. All agreed. A motion was made to add this. Ms. Newman feels that is too narrow. Mr. Jacobs stated Exhibit 15 should be added.

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

VOTED: to say "Relying on Exhibits 15, 18 and 19, the Board approves the Definitive Subdivision Amendment as shown on the Plan in the Subdivision approval."

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

VOTED: to approve the draft decision as just altered.

Appointments:

7:05 p.m. – Zoning Board of Appeals: discussion regarding Accessory Dwelling Units zoning proposal.

John Schneider, of the Zoning Board of Appeals (ZBA), noted 4 of the 5 ZBA members were at the hearing and there is unanimous support for the ADU article. The Zoning By-Law already authorizes by Special Permit taking 4 non-related boarders into the home. This is only changing cooking facilities. There is no great change in the Zoning By-Law. He stated he has been on the Zoning Board of Appeals for over 25 years and only 2 or 3 people have come in for Special Permits. He commented he has some problems with the Article as currently drafted. His main concern is there is no standard for Special Permits. Mr. Jacobs stated there is no section that says these are the decision criteria. He asked if the ZBA views the requirements as the decision criteria?

Mr. Schneider stated he finds the definition of family to be strangely narrow. Why not grandparents, aunts and uncles as family members to live in the house and to be taken care of? He feels the Board needs to deal with the transfer of ownership and LLCs. It could say “transfers of controlling interest.” The Planning Board has been silent on the issue. He is also concerned with enforcement. The Planning Board should put in a provision that the Building Inspector could request evidence of a relationship of the person living in the unit. Ms. McKnight stated the initial permit is issued based on who is living there. Mr. Alpert noted it will be part of the renewal process. Ms. Schneider feels the Building Inspector should have the right to request documentation.

Ms. McKnight discussed the criteria concern. There are criteria built in. This needs some judgment exercised. The Building Inspector will look into any complaints. She noted there are standards of criteria and enforcement built in. She feels this may put a burden on the ZBA. She wants to make sure the ZBA does not feel this is a burden for them. She anticipates some Town Meeting members may move to amend to include some of the relations discussed. Mr. Schneider stated the ZBA will go along with whatever the Planning Board has recommended, but this is strangely narrow. He feels there will be a lot of call for other relations.

7:20 p.m. – Discussion regarding Mixed-Use Retail/Self Storage Redevelopment – 77 Charles Street.

Kevin Joyce, attorney for the applicant, noted he sent in a number of materials back in early June. He reviewed the Zoning By-Law and believes the Planning Board has the authority to grant a Special Permit for the proposed use. He outlined the legal reasons. Under the Hillside decision it was determined to be allowable by Special Permit. He is ok with that for now. Mr. Jacobs noted in Mr. Pare's letter, third paragraph, the Planning Board did not reject as of right for Hillside development; but rather convinced the petitioner that the special permit route was appropriate. Mr. Ferreira, owner of 77 Charles Street, stated he feels it is unlikely he will be coming forward with an as of right project; all of their conversations have been about a special permit process. Mr. Joyce updated what has been done. He asked if a Special Permit process is what should embrace and begin. Ms. Newman asked what use the applicant is identifying as similar to (either as of right or by special permit). Mr. Joyce stated the Board has already allowed the self storage use in a similar district, and therefore also applies by Section 3.2. This is in the same general use category and similar in kind and similar in impact to a use already permitted; and by Section 3.2 may be approved by the Planning Board. Mr. Alpert stated it has to be a use allowed in the district and not just somewhere in the whole town.

Mr. Ferreira noted there has been a lot of discussion of support for the project. He started with a zoning amendment and pulled back. He is going back to the initial position. He still maintains putting a self storage is the only feasible option given the economics. He have about 6,000 square feet of retail in the area. He feels the Board should allow this use to go forward by Special Permit with the interpretation suggested. They are also willing to pursue a zoning change at Town Meeting. He thinks this is a consumer service establishment. Marlboro and several other towns in Massachusetts have relied on this definition of storage units as consumer services. Ms. McKnight stated she sees consumer service establishment as a service directly provided such as photocopying and not a storage unit.

Mr. Ferreira stated there has been a lot of discussion regarding the passivity of the use and such use not being the intent of the Board for the district. He feels this should be looked at as a small retail project. Other uses do not

work and larger retail is not feasible. This fits with the parking requirements and is a service in great demand. There is a lot of functionality to self storage. He has tried to address the ugliness of them with the design and feels it is a handsome building. He would request the Board reconsider some items. Mr. Alpert asked what floor size the applicant is offering for retail and self storage. Mr. Ferreira stated it is a consumer services as of right. He noted 1.0 FAR triggers a special permit. Ms. Newman explained that the self-storage use on Hillside was allowed by a provision that allowed the Board to grant a special permit for a use not otherwise called out in the By-Law. She explained that the section they are pointing to allows the Board to find a use to be similar in kind and impact to another use already allowed in a particular zoning district. Mr. Jacobs said he is interested in the argument that it might be a consumer service. He likes the use but would need it to work under the By-Law. Mr. Ferreira said that Westwood put a radius requirement in its zoning to limit these. Mr. Alpert stated he feels this use fits in the Board's vision for the Mixed Use 128 District. He likes the comparison this is similar to a Consumer Services Establishment. Mr. Ferreira said that a telecommunications facility, which is an allowable use, usually very few employees. The Board discussed some of the history of the current language of the zoning district.

It was noted there will be 2 cars and 2 employees. A discussion ensued regarding next steps. Mr. Ferreira said he can provide examples of radius requirement in zoning and where it's been considered a consumer service elsewhere. Mr. Jacobs stated he needs to be convinced of the use issue, not the issue of whether they can make it presentable. It may be as of right or could be like a use in the district. Mr. Ferreira requested guidance from the Board. Mr. Alpert is reluctant to give too much guidance in advance of an actual application. He commented the applicant needs to file an application and convince the Board why this fits a consumer services use. Ms. McKnight noted a storage facility has been approved for Hillside but has not yet been constructed. She suggested the applicant wait so people can see what it looks like.

7:40 p.m. – Discussion regarding Pediatric Medical Facility Zoning Article – Children’s Hospital.

Robert Smart, representative for the applicant, noted Children's Hospital wants to put a pediatric facility next to the Trip Advisor building at 380 First Avenue and 37 A Street. There is some parking on site. A pediatric facility is not allowed per the zoning. He has drafted an article and wants input from the Board. He has had conversations with BI Deaconess and they have no issue with Children's Hospital coming to Needham. This will be a satellite facility. Lisa Haggerty noted a map of other satellite locations in the packet. The hospital has developed a network of satellites to give care close to home. They work with other hospitals and doctors with specialty care and not primary care. They want to shift out of the main hospital to be more convenient to neighborhood locations.

Ms. McKnight clarified the focus is on specialty care and not primary care. Ms. Haggerty stated yes. There are geographical gaps between Waltham and Weymouth. The hospital wants to focus on the surgical specialty side. Ms. McKnight asked if they have any partnerships with community hospitals here. Ms. Haggerty noted Winchester Hospital and she has worked with the Building Inspector in Needham for pediatric issues. The Building Inspector would like more support and collaboration. She noted the hospital would like to set up an innovation and training center in conjunction with BID Needham. The access to the location is excellent. There would be a parking garage built next to the current garage. They will be creating a pediatric ambulatory surgical center with state of the art labs and an education training center with several clinical and therapeutic services such as orthopedic, sports medicine and sub specialties. There will be state of the art operating rooms, pediatric imaging and a lab.

Mr. Jacobs clarified there is no inpatient care. Ms. Haggerty noted there will be no beds at this facility. She stated the pediatric ambulatory space is to be licensed by the MA Department of Health. There will be medical office space, food service and a small medical device company with crutches, braces and such, who will lease space. The hospital feels a responsibility to the community. The hospital will pay 100% of assessed real estate taxes and will be a hub for clinical research and education. This will create 400 permanent jobs and 225 construction jobs per month. It is non-profit.

Tim Sullivan gave an overview of the zoning. This is 13.5 acres and there is a special permit that has been amended a number of times. He feels this fits within the special permit framework but some of the uses are not allowed. The ambulatory aspect is outside the allowed uses. They are proposing an amendment that would allow pediatric

medical facilities. He looked at the medical overlay district. Ms. McKnight asked what age young adults are. Ms. Haggerty stated usually 16 to 22. There are a lot of orthopedic patients who have grown up with issues. The hospital tries to see them through to adulthood.

It was requested by an audience member that the applicant talk about the pilot payments in Waltham. Ms. Haggerty stated the hospital pays real estate tax. There are tenants and the tax is paid through leases. It was asked if there would be something in writing to ensure it. Mr. Sullivan noted, if rezoned, a pilot agreement would be condition of that. It could also be a condition of a special permit. Ms. McKnight noted she would like to learn more about pilot real estate agreements. Mr. Alpert stated that his recollection is the town already has a pilot program from the residences behind the nursing home on Gould Street. Mr. Jacobs knows the applicant met with a member of the Select Board, and the Select Board wants to make sure the applicant pays their full share of assessed taxes.

Ms. Newman asked why they didn't carry forward some of the parking demand information from the medical overlay district. Mr. Sullivan stated that they spoke to their traffic consultant and they do not anticipate any short-term visits warranting the 7 per thousand requirement.

Ms. McKnight noted that they are proposed the use to be allowed by-right. She is concerned that the Board have the discretion to deny it if the impact was shown to be too high. Mr. Sullivan said it will be a special permit no matter what because they will have to amend the existing special permit on the property. Ms. Newman clarified that although that is true, it is a site plan special permit, which has a different set of rules than a special permit with regard to use. Ms. McKnight reiterated that she feels a *discretionary* special permit is important to her.

Mr. Smart noted hospital use is allowed in the medical overlay district. Mr. Jacobs assumes the applicant would like the Planning Board to proceed with sponsoring this proposed zoning change. Mr. Smart would prefer that. He thinks it would be best and most appropriate for this spring with a public hearing in January and February. If going forward, what more information would the Board need? He assumes parking and traffic studies and a fiscal impact study. Mr. Jacobs noted they would need an independent analysis. Ms. McKnight suggested it would be good to have the existing special permit background with them. Ms. Haggerty noted it will be a 24 to 28 month construction schedule. They will do a special permit at the same time as a Determination of Need. Mr. Sullivan stated he would come in right after Town Meeting. Ms. Haggerty will bring more information on the Determination of Need and zoning impacts. Ms. Newman stated she would be interested in the Lexington zoning and how that was done.

ANR Plan – 766 Chestnut Street, LLC, Petitioner (Property located at 766 Chestnut Street, Needham, MA).

Mr. Jacobs noted a letter, dated 10/16/19, from Attorney Robert Smart requesting an extension of the action deadline for ANR approval for 766 Chestnut Street.

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

VOTED: to extend the action deadline for ANR approval for 766 Chestnut Street to 11/22/19.

Discussion of Fall Special Town Meeting zoning.

Mr. Alpert stated he is comfortable with the presentation. He thinks a slide as a handout that shows items that were raised at the May Town Meeting and actions taken would be very helpful. He felt what the Board gave to the Finance Committee was very good. There should be a handout table and he can do a short summary. Ms. McKnight stated having height and setbacks all on one slide was confusing. The 20 foot setback is her big issue. She does not think it is clear. Mr. Jacobs wanted to talk about John Schneider's comments on the accessory dwelling units article. He is bewildered by his claim of no criteria. Ms. McKnight noted some of the criteria needs a judgment call by the Building Inspector. It was agreed after discussion not to include limited partnerships and that the transfer issue Mr. Schneider was concerned about was not an issue. The Building Inspector and ZBA have authority to ask at least every 3 years for proof of ownership.

Correspondence

Mr. Jacobs noted a letter from Sira Natural stating they would like to come in. Ms. Newman commented they are willing to come in if the Planning Board wants them to. They feel Cambridge is over reacting. Mr. Jacobs stated he would like to see the source documents and Cannabis Control Commission (CCC) approval. Ms. McKnight agreed.

Mr. Jacobs noted a legal notice from Newton regarding a 10/10/19 meeting; a Town of Dedham Planning Board notice; an email from Don Lankiewicz, Chair of the Historical Commission, noting the Historic Commission has been asked not to endorse the plan for 1479 & 1473 Great Plain Avenue. The Commission will hold a hearing on a demolition delay for 6 months. Mr. Jacobs also noted minutes. Ms. Newman stated the Jack Cogswell building is looking for an occupancy permit. The consolidation plan is not ready yet. She will issue a temporary permit for 30 days until the consolidation plan is done.

Mr. Jacobs commented he has been by the RTS a couple of times lately. The applicant was going to dig down 6 feet and rip out the weeds. Instead the applicant decided to treat the area. The applicant has dug up the whole thing. Mr. Alpert stated the berm has been totally taken out. The entire berm will have to be redone. Mr. Jacobs suggested the Planning Director go out and look.

Report from Planning Director and Board members.

Ms. Newman gave an update on the traffic study. Ms. McKnight noted she went to the Select Board's hearing on Green Communities. There was some very good information. She asked if this Planning Board would vote to urge the Select Board to seek designation as a green community. It will be put on the 11/6/19 agenda. Mr. Jacobs would like to discuss this.

Minutes

Ms. McKnight noted on the minutes of 5/21/19, page 4, 2nd to last line at the bottom, a question mark is needed; on page 6, 2nd line, add "and"; and put a comma after Hillside School.

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

VOTED: to accept the minutes of 5/21/19 with changes discussed.

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

VOTED: to approve the minutes of 7/30/19.

The Board members passed in changes for the minutes of 8/6/19, 9/3/19 and 9/17/19.

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

VOTED: to adjourn the meeting at 9:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk

brownrudnick

Edward D. Pare, Jr., Esq.
direct dial: 401-276-2639
epare@brownrudnick.com

February 10, 2020

VIA FEDERAL EXPRESS

Lee Newman
Director of Planning and Community Development
Town of Needham
Public Services Administration Building
500 Dedham Ave.
Needham, MA 02492

RE: Application for Determination of Proposed Use - Mixed-Use Retail/Self-Storage
Redevelopment - 77 Charles Street, Needham, Massachusetts

Dear Ms. Newman:

On behalf of 77 Charles Street Owner, LLC (the "Owner"), while reserving all rights, we are submitting this Application for Determination of Proposed Use (the "Application") in support of a proposed mixed-use retail/self-storage facility redevelopment project located at 77 Charles Street, Needham, Massachusetts (the "Property"). As you know, the Owner has recently worked with the Town of Needham to determine the best approach for the redevelopment of the Property with a focus on long-term community needs and benefits. We respectfully submit the Application pursuant to the Town of Needham Commercial Permitting Guide Issued by the Department of Planning and Community Development dated March 2012 (the "Guide") specifically Section III on page 5 of the Guide and in accordance with Section 3.1 of the Newton Zoning Bylaw (the "Bylaw").

For your convenience and as further background, we've included a copy of our letter dated June 4, 2019 (the "Letter") previously sent to the Town of Needham Building Commissioner, Planning Staff and Town Counsel. As we stated in the Letter, we strongly believe the proposed Project meets the use guidelines under the Section 3.1 of the Bylaw. We seek this use determination in order to confirm the proposed use is allowed by special permit prior to expending significant resources on drawings and engineering for this much needed redevelopment project. Based upon the Owner's discussions with various adjacent landowners and other stakeholders in the Town of Needham, this project is a significant upgrade for this area and has received widespread support. (See enclosed letters of support for this redevelopment project.)

We note that the Planning Board has a great deal of discretion in evaluating projects and uses that may be considered under Section 3.1 of the Bylaw. We respectfully assert this redevelopment is one of those projects that the Planning Board can and should approve. We note the broad language contained in the Application form provides:

"It provides, therefore, a method of clarifying uses that are not expressly referenced in the Zoning By-Law and imparts a measure of flexibility thereto in order to allow the



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Planning Board to keep up with the evolution of the types and varieties of new innovative businesses, which do not always conform to historical models. Determinations are used to establish the proper classification of new uses and allow for the formalization of other interpretations that may be required to effectively administer the By-Law. Broad latitude has been provided for expanding upon specific uses enumerated in each general use category.”

As we did in the Letter, we emphasize that Section 3.1 was enacted and incorporated into the By-Law in 2011 to “allow the Planning Board greater discretion and flexibility over the proper inclusion of other uses” [see enclosed copy of Article 9 of the 2011 Annual Town Meeting Warrant approving the applicable provision of Section 3.1].

COMPLIANCE WITH THE STANDARDS FOR THE GRANT OF DETERMINATIONS OF PROPOSED USE PURSUANT TO THE GUIDE

Standards. Determinations must be consistent with the Zoning By-Law and the following standards:

- 1. No determination shall allow the establishment of any use which was previously considered and rejected by the Planning Board for the same zoning district within the past two years.**

The proposed use has not been considered and rejected by the Planning Board for this zoning district within the last two years.

- 2. No determination shall permit a use otherwise expressly prohibited in the zoning district.**

We note that a self-storage use is not specifically listed in the By-Law and as such the proposed use is not expressly prohibited in the Mixed Use-128 ("MU-128") zoning district. However, we highlight the fact that in November 2018, the Needham Planning Board issued a special permit (Number 2018-07) for a project located at 540 Hillside Avenue ultimately allowing a self-storage use in the Industrial zoning district. Similar to the MU-128 zoning district, while a self-storage use is not specifically allowed "as of right" or by "special permit" in the Industrial zoning district, the Planning Board used its discretionary authority under the Bylaw to approve the use. As you may recall, the proponent for that project relied on a section in the Use Tables in the Industrial zoning district which states, “Any lawful purpose or special use not enumerated elsewhere in this By-Law”.



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The Bylaw also provides that "[n]otwithstanding the uses set forth in the Schedule of Use Regulations (Section 3.2), in all Industrial, Business and/or Commercial zoning districts, including MU-128 (a) if the Planning Board determines a use to be in the same general use category and is similar in kind to, and is similar in impact to, a use allowed by Section 3.2 as of right, that use shall be allowed and (b) if the Planning Board determines a use to be in the same general use category and is similar in kind to, and is similar in impact to a use allowed by Section 3.2 by special permit, that use may be allowed by the Planning Board by special permit. By extension of the approval of the 540 Hillside Avenue project, the proposed use is in the same general use category and identical in kind.

Pursuant to the By-Law and the approval of the special permit referenced above, we respectfully assert that the Planning Board has determined that a self-storage use is allowed by special permit in the Industrial zoning district as "any lawful purpose or special use not enumerated elsewhere in this By-Law". Since Section 3.1 of the By-Law applies to the Industrial, Industrial 1, Business and/or Commercial Zoning Districts, including the MU-128 District, we submit that a self-storage use is also allowed by special permit in the MU-128 District. Our proposed use is not merely of the same general use category and similar in kind and impact to a use allowed by Section 3.2, it is an identical use, identical in kind and impact. We note the proposed mixed uses, including retail, are also permitted uses in the MU-128 zoning district.

3. No determination shall permit any use in any zone that is inconsistent with the general use categories allowed in the zoning district and which is not similar in kind to and not similar in impact to those uses allowed by right or by special permit.

The proposed use is consistent with the general use categories in the MU-128 zoning district and is similar in kind to and impact to those uses allowed by right or by special permit. We respectfully assert that a number of consistent "as of right" and "special permit" uses are allowable in the MU-128 zoning district. These include, without limitation, the following uses contained in Section 3.2.6.1 of the By-Law: "Craft, consumer or commercial service establishment dealing with the general public" in Subsection (e), which appears to be a broad catchall for service uses in the Schedule of Use Regulations whereby the use includes "and not otherwise enumerated in this section" (see Schedule of Use Regulations on page 27); this classification, in the absence of a specific self-storage use, has also been utilized in a number of Massachusetts towns including most recently Marlboro in qualifying a self-storage use); "Wholesale distribution facilities in an enclosed structure, excluding the storage of flammable liquids, gas or explosives" in Subsection (i); and, "Telecommunications facility housed within a building" in



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Subsection (m). Similarly, Section 3.2.6.2 of the By-Law lists Uses Permitted by Special Permit which includes, without limitation: "Equipment rental services but not including any business that uses outside storage" in Subsection (e). Section 3.2.6.3 also allows "parking garages".

To avoid repetition, we incorporate by this reference, the assertions and arguments made in response to Item 2 above to support our response to this Item 3 and we note the proposed mixed uses, including retail, are permitted uses in the MU-128 zoning district.

4. No determination shall permit any use in a particular zoning district unless such use is within the same general use category and is:

a. Similar in kind to a use allowed by right or by special permit within the zone; and

To avoid repetition, we incorporate by this reference, the assertions and arguments made in response to Items 2 and 3 above to support our response to this Item 4(a) that the proposed use is similar, if not identical in kind to a use allowed by special permit within the zone and we note the proposed mixed uses, including retail, are permitted uses in the MU-128 zoning district.

b. Similar in impact to a use allowed by right or by special permit within the zone;

To avoid repetition, we incorporate by this reference, the assertions and arguments made in response to Items 2 and 3 above to support our response to this Item 4(b) that the use is similar, if not identical, to a use allowed by right or by special permit within the zone and we note the proposed mixed uses, including retail, are permitted uses in the MU-128 zoning district.

With respect to impact of the use, the applicant proposes a mixed-use retail, self-storage facility comprised of approximately 4,500SF of retail fronting both Charles and Wexford Street and a four (4) story, 88,794SF self-storage facility with thirty-one (31) parking spaces. The current building is a circa 1970's, flex office building [single] which includes a bike store, fitness center, golf training space and medical supplies distributor. We would propose similar hours of operation for the current tenants which are similar to the operations as a self-storage facility. The number of full-time employees for the self-storage facility would not



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exceed two at peak periods and typically would only be one. The parking required for the self-storage use would be approximately ten (10) spaces (based on the 540 Hillside Avenue approved formula/calculation) and the retail requirement of approximately fifteen (15) spaces (per zoning requirements) for a total requirement of twenty-five (25) spaces. The applicant will propose thirty-one (31) parking spaces. We note that given the low intensity of the self-storage use, greater access to parking for the retail uses would be available and the Owner would allow access to all parking spaces on the Property under a shared parking arrangement. The self-storage use also has a benign traffic impact and, of course, a complete traffic study would be conducted at the appropriate time in the special permit process to substantiate this claim. We believe the impact of this redevelopment project will be strongly favorable to the surrounding neighborhood and could act as a catalyst for future development and redevelopment, where none has occurred in decades.

- c. **Having considered, among other things, (1) the activities involved in or equipment or materials employed in the use and (2) the effects of the use on the surrounding area, such as traffic impacts, parking demands, noise, dust, odors, vibrations, lighting, and glare.**

To avoid repetition, we incorporate by this reference, the assertions and arguments made in response to Items 2, 3, 4(a) and 4(b) above to support our response to this Item 4(c). The proposed use will not produce unreasonable noise, odors, dust, glare, vibrations, or intrusive lighting and will have a positive impact on the surrounding area and through its architectural design and quality materials hopefully generate additional investment and redevelopment in the surrounding area.

5. **Any use permitted pursuant to this procedure shall comply with all applicable requirements and standards imposed by the Planning Board.**

The proposed use would comply with all applicable requirements and standards as may be reasonably imposed by the Planning Board by way of conditions to a grant of a special permit.

6. **Any use approved pursuant to a determination must be consistent with the representations made by the applicant with respect to the use and the findings adopted by the Planning Board in conjunction with the determination.**



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The Applicant, while reserving all rights, acknowledges the terms of this provision.

We respectfully request that the Application be scheduled before the Planning Board for a determination that a self-storage use is allowed by special permit for the Property in the MU-128 zoning district. We have enclosed sets of conceptual plans, previously provided, depicting the type of redevelopment possible with this proposed use.

Please do not hesitate to contact me should there be any questions. We have enclosed the required ten (10) copies of the Application.

Sincerely,

Brown Rudnick LLP

A handwritten signature in black ink, appearing to read "Edward D. Pare, Jr.", followed by a solid horizontal line.

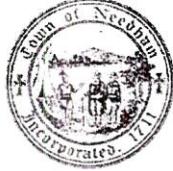
Edward D. Pare, Jr., Esq.

EDP/jad
Encs.

cc: Alexandra Clee, Assistant Town Planner
David Tobin, Needham Town Counsel
Paul A. Ferreira, 77 Charles Street Owner, LLC
Kevin P. Joyce, Esq., Brown Rudnick LLP

63649357 v2-WorkSiteUS-029818/0011

TAB #1



TOWN of NEEDHAM
MASSACHUSETTS
PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

**APPLICATION FOR DETERMINATION OF PROPOSED USE
UNDER SECTION 3.1 OF THE ZONING BY-LAW**

Applicability. This application provides a method for ascertaining whether a use is in the same general use category and is similar in kind to, and is similar in impact to, a use allowed in a particular zoning district as of right or by special permit. It provides, therefore, a method of clarifying uses that are not expressly referenced in the Zoning By-Law and imparts a measure of flexibility thereto in order to allow the Planning Board to keep up with the evolution of the types and varieties of new innovative businesses, which do not always conform to historical models. Determinations are used to establish the proper classification of new uses and allow for the formalization of other interpretations that may be required to effectively administer the By-Law. Broad latitude has been provided for expanding upon specific uses enumerated in each general use category. A request for a determination can be initiated by the Town or requested by a property owner or lessee.

Standards. Determinations must be consistent with the Zoning By-Law and the following standards:

1. No determination shall allow the establishment of any use which was previously considered and rejected by the Planning Board for the same zoning district within the past two years.
2. No determination shall permit a use otherwise expressly prohibited in the zoning district.
3. No determination shall permit any use in any zone that is inconsistent with the general use categories allowed in the zoning district and which is not similar in kind to and not similar in impact to those uses allowed by right or by special permit.
4. No determination shall permit any use in a particular zoning district unless such use is within the same general use category and is
 - a. Similar in kind to a use allowed by right or by special permit within the zone; and
 - b. Similar in impact to a use allowed by right or by special permit within the zone;
 - c. Having considered, among other things, (1) the activities involved in or equipment or materials employed in the use and (2) the effects of the use on the surrounding area, such as traffic impacts, parking demands, noise, dust, odors, vibrations, lighting, and glare.
5. Any use permitted pursuant to this procedure shall comply with all applicable requirements and standards imposed by the Planning Board.

6. Any use approved pursuant to a determination must be consistent with the representations made by the applicant with respect to the use and the findings adopted by the Planning Board in conjunction with the determination.

Review Process. Upon receipt of a completed Application for Determination of Proposed Use, the matter shall be placed on the next available Planning Board agenda for review by the Planning Board.

Effect of Favorable Use Interpretations. A use determination, finding a particular use to be permitted as of right or specially permitted in a particular district, shall be deemed to authorize only the specific use for which it was issued. Such permit shall not be deemed to authorize any allegedly similar use for which a separate use determination has not been issued. If a proposed use is found to be more closely similar to a use allowed by Special Permit in the district in which it is proposed to be located, then such use determination shall be conditioned on the issuance of a Special Permit, after filing, notice and hearing and subject to all the specific criteria of such issuance. No use determination finding that a particular use is permitted or specially permitted in a particular district shall authorize the establishment of such use or the development, construction, alteration or moving of any building or structure. It shall merely authorize the preparation, filing and processing of applications for any permits and approvals that may be required for the establishment of the business, including but not limited to a building permit, special permit, certificate of occupancy or license required by the business.

Time Limit. A determination remains in effect until it is modified by a subsequent determination or By-Law amendment.

DETERMINATION OF PROPOSED USE APPLICATION

Type or neatly print all application information and provide the required signatures.
Please take your time to provide complete answers and all the information requested. If you believe any portion is not applicable, explain why in the blank. Illegible and/or incomplete applications cannot be accepted.

Collate this application together with all plans and necessary documentation outlined in this application and submit the complete application package to the Planning and Community Development Department. Submit the **original and 10 copies** of the complete and collated application packages.

BASIC INFORMATION

CONTACT PERSON:

Name *Paul Ferreira/Kezia Tiburcio* Telephone Number: *617.663.5768/617.663.4806*
(The agent or consultant for the application who will be the party that will receive correspondence and inquiries.)

Address: *c/o 77 Charles Street Owner, LLC 275 Grove Street, Newton, MA 02466*

Email Address: *paf@bluehawkinvestments.com/kft@bluehawkinvestments.com*

LOCATION:

Project Property Address: *19 Wexford Street/77 Charles Street*

Assessor Parcel Number: *199/074-0033-0000.0*

Zoning District: *MU-128*

Size of Parcel: *1.07 acres*

Size of Premises: *20,771SF*

Name of Establishment: *N/A*

OWNER:

(if other than the applicant)

Name: *N/A -Owner is the Applicant*

Address: _____

Telephone Number: _____

Email Address: _____

APPLICANT:

Name (must be owner or lessee): *77 Charles Street Owner, LLC*

Address: *275 Grove Street, Suite 2400, Newton, MA 02466*

Telephone Number: *617.663.5768/617.663.4806*

Email Address: *paf@bluehawkinvestments.com/kft@bluehawkinvestments.com*

BRIEF DESCRIPTION OF PROPOSED USE: *The applicant proposes a mixed-use retail, self-storage facility comprised of approximately 4,500SF of retail fronting both Charles and Wexford Street [see plan] and a 4 story 88,794SF self-storage facility including 31 parking spaces [see preliminary plan attached].*

QUESTIONS AS TO USE

Please answer the questions below; you may attach a separate sheet.

1. Provide a clear, complete, and detailed description of the proposed use of the parcel and the structures on the site. Describe the purpose of the use, the number and type of structures need for the use, the facilities, equipment, machinery and materials used to carry out the use, the nature of the operation, the hours of operation, peak period(s) of operation, the number of people involved (including the maximum number of patrons/clients and maximum of employees at the peak of the operation), the parking required for the use, the type and amount of traffic expected, and any possible impacts of the use on the surrounding neighborhood.

The applicant proposes a mixed-use retail, self-storage facility comprised of approximately 4,500SF of retail fronting both Charles and Wexford Street [see plan] and a 4 story 88,794SF self-storage facility including 31 parking spaces [see preliminary plan attached]. The current building is circa 1970's, flex office building [single] which include a bike store, fitness center, golf training space and medical supplies distributor. We would propose similar hours of operation for the current tenants which are also similar to the self-storage facility. The number of full-time employees for the self-storage facility would not exceed two at peak period and most days would be one. The parking required for the self-storage use would be approximately 10 spaces [based on the 540 Hillside Avenue Formula] and the retail approximately 15 spaces [per zoning] and the applicant would propose an increase to 31 spaces. We'd also note that given the low intensity of use with Self-Storage the retail would have access to all parking spaces under a shared parking arrangement. Self-Storage is a benign traffic impact and would generate fewer peak trips per day as the current development program. Of course, a complete traffic study would be conducted at the appropriate time to substantiate this claim. We believe the impact will be strongly favorable to the surrounding neighborhood and could act as a catalyst for future development, where none has occurred in decades. The applicant has conducted preliminary community outreach and has a number of support letters from the abutting neighbors.

2. List the specific sections of the Zoning By-Law that relate to your Application for Determination. Describe the permitted or specially permitted uses allowed by the present use category in the zoning district most similar to your proposed use.

General Use Category: N/A

Explain why you believe this general use category is most similar to your proposed use: *Please refer to the supporting statements submitted herewith.*

Check whether your specific use is most similar in kind and impact to a use allowed as of right or by special permit and provide the information requested accordingly:

Use Allowed By Right: *N/A - Use allowed by Special Permit.*

Explain which specific use, and why you believe this specific use, is most similar in kind and impact to your proposed use:

Use Allowed By Special Permit: _____

Explain which specific use, and why you believe this specific use, is most similar in kind and impact to your proposed use:

Mixed-Use Retail/Self-Storage. Please see attached letter addressed to Mr. David A. Roche, CBO Building Commissioner dated June 4, 2019 with copies sent to Town Counsel and Town Planner.

3. Describe briefly the existing use or uses on the land and any existing buildings on the proposed site.

The existing use is a single flex office building which accommodates a bike store, fitness center, golf training space and medical supplies distributor.

4. Provide documents, statements or other evidence demonstrating that the proposed use is within the same general use category and is similar in kind to and is similar in impact to a use allowed either by right or special permit in Section 3.2 of the Zoning By-Law and will comply with all use limitations established by the Zoning District in which it is proposed to be located.

Please see attached Preliminary Plan and Letter addressed to Mr. David A. Roche, CBO Building Commissioner dated June 4, 2019 with copies sent to Town Counsel and Town Planner.

5. Describe how the space will be used, detailing the active use area, office area, storage area, mechanical equipment/HVAC area, storage, and the like.

The retail portion of the proposed development program may include similar activities that are present today such as the golf training, fitness and bike retail, however, it may also include a food component given the dearth of offerings in this district. Today's Class A multi-story climate controlled self-storage facilities have more architectural design and serve the traditional residential community constituent as well as e-commerce home-based businesses. The mechanical/HVAC area shall be located on the roof and properly screened.

CHECKLIST

Please use the following detailed checklist to ensure that you provide all times required for a determination of use by the Planning Board. **If you believe any item is not applicable, write N/A and explain why it is blank.** Please remember to fill in all information; the application must be complete to be accepted for review. The items listed below represent the minimum requirements for submittal.

1. Completed Application Form - *complete*
2. Plan or sketch showing location, size and purpose of all existing buildings (and proposed buildings if any) and uses on the property. – *see attached*
3. Plan or sketch showing location and width of existing and proposed access points, driveways, and sidewalks serving the property. – *see attached*
4. Plan or sketch showing location and number of all parking spaces, including the number of those designated for the proposed use (if any). – *see attached*

CERTIFICATION

I hereby certify that I am the owner or lessee authorized by the owner to submit this Application for Determination of Use and that I have familiarized myself with the rules and procedures with respect to preparing and filing this application. All statements, answers, and information provided as part of this submittal are in all respects complete, true and accurate to the best of my knowledge and belief.



Applicant's signature

Date

Paul Ferreira, Manager
Print Name

THIS SECTION BELOW IS FOR OFFICIAL USE ONLY

Planning Board Determination as to General Use Category: _____

Planning Board Determination as to Specific Use Most Similar in Kind to and in Impact
to the Proposed Use: _____

Proposed Use is As of Right: yes no

Proposed Use is Special Permit: yes no

Comments:

TAB #2

brownrudnick

Edward D. Pare, Jr., Esq.
direct dial: 401-276-2639
epare@brownrudnick.com

June 4, 2019

Mr. David A. Roche, CBO
Building Commissioner
Town of Needham
Public Services Administration Building
500 Dedham Ave.
Needham, MA 02492

Re: Mixed-Use Retail/Self-Storage Redevelopment - 77 Charles Street, Needham, MA

Dear David:

We represent 77 Charles Street Owner, LLC ("Owner") with respect to a proposed mixed-use retail/self-storage facility redevelopment project located at 77 Charles Street, Needham, Massachusetts. As you know, Owner has recently worked diligently with the Town of Needham to determine the best approach for the redevelopment of this property with a focus on long-term community need and benefits.

We reviewed the Needham Zoning Bylaw (the "By-Law") to ascertain the intent and vision for the Mixed Use-128 ("MU-128") zoning district and the allowed uses therein. We understand and acknowledge that a self-storage use is not specifically listed in the By-Law. However, we note that in November 2018, the Needham Planning Board issued a special permit (Number 2018-07, copy enclosed) for a project by Self Storage Group, LLC located at 540 Hillside Avenue which allowed a self-storage use in the Industrial zoning district. Similar to the MU-128 zoning district, a self-storage use is not specifically allowed "as of right" or by "special permit" in the Industrial zoning district. As you know, the proponent for 540 Hillside Avenue relied on a section in the Use Tables in the Industrial zoning district which states, "Any lawful purpose or special use not enumerated elsewhere in this By-Law."

Since self-storage is not ". . . enumerated elsewhere in this By-Law" the Planning Board agreed with the proponent and approved the use by issuing a special permit. As you may recall, the proponent of the 540 Hillside Avenue project initially made an argument that such self-storage use was "as of right" which the Planning Board rejected but subsequently concluded a "special permit" was appropriate under the By-Law.

As you know, Section 3.1 of the By-Law provides:

"Notwithstanding the uses set forth in the Schedule of Use Regulations (Section 3.2), in all Industrial, Business and/or Commercial zoning districts, including Mixed Use-128 (a) if the Planning Board determines a use to be in the same general use category and is similar in kind to, and is similar in impact to, a use allowed by Section 3.2 as of right,

that use shall be allowed and (b) if the Planning Board determines a use to be in the same general use category and is similar in kind to, and is similar in impact to a use allowed by Section 3.2 by special permit, that use may be allowed by the Planning Board by special permit." Emphasis added.

Pursuant to the By-Law and the special permit referenced above, we respectfully assert that the Planning Board has determined that a self-storage use is allowed by special permit in the Industrial zoning district as "any lawful purpose or special use not enumerated elsewhere in this By-Law". Since Section 3.1 of the By-Law applies to the Industrial, Industrial 1, Business and/or Commercial Zoning Districts, including the MU-128 District, we submit that a self-storage use is also now allowed by special permit in the MU-128 District. Our proposed use is not merely of the same general use category and similar in kind and impact to a use allowed by Section 3.2, but is an identical use and identical in kind and impact. The proposed mixed uses, including retail, are also permitted uses in the MU-128 zoning district pursuant to Section 3.1 of the By-Law.

We also believe a number of the "as of right" uses and "special permit" uses in the MU-128 zoning district support our assertion. These include, without limitation, the following uses contained in Section 3.2.6.1 of the By-Law: "Craft, consumer or commercial service establishment dealing with the general public" in Subsection (e), which appears to be a broad catchall for service uses in the Schedule of Use Regulations whereby the use includes those "...not otherwise enumerated in this section" (see Schedule of Use Regulations on page 27); "Wholesale distribution facilities in an enclosed structure, excluding the storage of flammable liquids, gas or explosives" in Subsection (i); and, "Telecommunications facility housed within a building" in Subsection (m).

Similarly, Section 3.2.6.2 of the By-Law lists Uses Permitted by Special Permit which includes, without limitation: "Equipment rental services but not including any business that uses outside storage" in Subsection (e). Section 3.2.6.3 also allows "parking garages".

Lastly, we understand that Section 3.1 was inserted into the By-Law in 2011 to "allow the Planning Board greater discretion and flexibility over the proper inclusion of other uses" [see enclosed copy of Article 9 of the 2011 Annual Town Meeting Warrant approving the applicable provision of Section 3.1].

Based on the above history and the express language of the By-Law, we submit that the Planning Board is well within its authority to determine that self-storage uses are allowed "as of right" and/or allow self-storage uses by "special permit" in the MU-128 zoning district, subject to satisfaction of the applicable standards. In light of the Planning Board's recent determination and decision, fairness dictates that Owner's proposed self-storage use be allowed by special permit based on the plain language of Section 3.1 of the By-Law and the associated legislative history.

BR

Mr. David A. Roche, CBO
June 4, 2019
Page 3

We respectfully request some time to review this in greater detail in person so we can move forward with our redevelopment project and submit the appropriate application. Please let us know when it would be convenient to meet.

Sincerely,

Brown Rudnick LLP

Edward D. Pare, Jr. (jad)
Edward D. Pare, Jr., Esq.

EDP/jad

cc: David Tobin, Needham Town Counsel
 Paul A. Ferreira, 77 Charles Street Owner, LLC
 Kevin P. Joyce, Esq.

63416688 v1-WorkSiteUS-029818/0011

TAB #3



Letter in Support Self-Storage Facility at 77 Charles Street

Dear Members of the Planning Board,

We are writing to express our support of the proposed self-storage facility at 77 Charles Street by Blue Hawk Investments, LLC of Newton, Massachusetts. Specifically, we understand that a zoning amendment is required to allow this development in the Mixed Use-128 District.

We have had an opportunity to review the plans and believe that this proposed development is an aesthetic and practical improvement to its current use. We also believe that this is the highest and best use of this property for several reasons.

First, this use represents a significant increase in property tax revenues, as much as a tripling of the current \$45,000 per year tax payment for the lot. Second, this is a low impact use that will generate very little traffic. In fact, the Institute of Traffic Engineers has found that self-storage generates the lowest traffic rates compared to other commercial uses while generating comparable tax revenue.

Third, research has shown that there is a significant demand for storage space for both businesses and residents in Needham. And, fourth, this proposed use is consistent with the purposes of the Mixed Use Overlay District which include “promoting a range and balance of land uses.” For example, the uses in this district were recently expanded to include a veterinary office and a medical marijuana treatment facility.

Therefore, we hope you will support this proposed use as believe it will be an asset to the community. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Dundas". It is written in a cursive style with a long horizontal line extending from the end of the signature.

Michael Dundas
Chief Executive Officer
Sira Naturals, Inc.
29 Franklin Street
Needham, MA 02494

Letter in Support of Mixed-Use Self-Storage Facility at 77 Charles Street

Dear Members of the Planning Board,

We are writing to express our support of the proposed mixed-use retail/community space self-storage facility at 77 Charles Street by Blue Hawk Investments, LLC of Newton, Massachusetts (“BHI”), which includes retail/community space on the first floor. We understand that a zoning amendment is required to allow this development in the Mixed Use-128 District.

We have had an opportunity to review the preliminary plans provided by BHI and believe that this proposed development is an aesthetic and practical improvement to its current use for several reasons:

First, this use represents a significant increase in property tax revenues, as much as a tripling of the current \$49,000 per year tax payment for the lot.

Second, we view this as a low impact use that will generate very little traffic compared to other commercial uses.

Third, there is a strong demand for storage space for both businesses and residents in Needham.

Fourth, this proposed use is consistent with the defined purposes of the Mixed Use-128 District which include “promoting a range and balance of land uses.”

Therefore, we hope you will support this proposed use as we believe it will be an asset to the community. Thank you for your consideration.

Sincerely,

Name

Address

Phone

Brian McVeigh	4 Arlington Rd	857-869-5218
Ray McVeigh	4 Arlington Rd	617-293-4069
John McVeigh	14 Charles St.	781-670-3910
Dorothy McVeigh	43 Fremont St	781-414-3302
David McVeigh	76 Bedford St	781-455-0020

Letter in Support of Mixed-Use Self-Storage Facility at 77 Charles Street

Dear Members of the Planning Board,

We are writing to express our support of the proposed mixed-use retail/community space self-storage facility at 77 Charles Street by Blue Hawk Investments, LLC of Newton, Massachusetts (“BHI”), which includes retail/community space on the first floor. We understand that a zoning amendment is required to allow this development in the Mixed Use-128 District.

We have had an opportunity to review the preliminary plans provided by BHI and believe that this proposed development is an aesthetic and practical improvement to its current use for several reasons:

First, this use represents a significant increase in property tax revenues, as much as a tripling of the current \$49,000 per year tax payment for the lot.

Second, we view this as a low impact use that will generate very little traffic compared to other commercial uses.

Third, there is a strong demand for storage space for both businesses and residents in Needham.

Fourth, this proposed use is consistent with the defined purposes of the Mixed Use-128 District which include “promoting a range and balance of land uses.”

Therefore, we hope you will support this proposed use as we believe it will be an asset to the community. Thank you for your consideration.

Sincerely,

Name

Address

Phone

Christopher N. Lane 30 Charles St 781-727-8083
Christopher M. Lane

Letter in Support of Mixed-Use Self-Storage Facility at 77 Charles Street

Dear Members of the Planning Board,

We are writing to express our support of the proposed mixed-use retail/community space self-storage facility at 77 Charles Street by Blue Hawk Investments, LLC of Newton, Massachusetts ("BHI"), which includes retail/community space on the first floor. We understand that a zoning amendment is required to allow this development in the Mixed Use-128 District.

We have had an opportunity to review the preliminary plans provided by BHI and believe that this proposed development is an aesthetic and practical improvement to its current use for several reasons:

First, this use represents a significant increase in property tax revenues, as much as a tripling of the current \$49,000 per year tax payment for the lot.

Second, we view this as a low impact use that will generate very little traffic compared to other commercial uses.

Third, there is a strong demand for storage space for both businesses and residents in Needham.

Fourth, this proposed use is consistent with the defined purposes of the Mixed Use-128 District which include "promoting a range and balance of land uses."

Therefore, we hope you will support this proposed use as we believe it will be an asset to the community. Thank you for your consideration.

Sincerely,

Name

Address

Phone

Tina Burgos 31 FAIRVIEW RD. NEEDHAM 262-951-0985

Robert F. Testabord 11 Parkman Way, Needham 781-474-7948

Adam Meixner 57 William St, Needham 617-304-6611

Letter in Support of Mixed-Use Self-Storage Facility at 77 Charles Street

Dear Members of the Planning Board,

We are writing to express our support of the proposed mixed-use retail/community space self-storage facility at 77 Charles Street by Blue Hawk Investments, LLC of Newton, Massachusetts ("BHI"), which includes retail/community space on the first floor. We understand that a zoning amendment is required to allow this development in the Mixed Use-128 District.

We have had an opportunity to review the preliminary plans provided by BHI and believe that this proposed development is an aesthetic and practical improvement to its current use for several reasons:

First, this use represents a significant increase in property tax revenues, as much as a tripling of the current \$49,000 per year tax payment for the lot.

Second, we view this as a low impact use that will generate very little traffic compared to other commercial uses.

Third, there is a strong demand for storage space for both businesses and residents in Needham.

Fourth, this proposed use is consistent with the defined purposes of the Mixed Use-128 District which include "promoting a range and balance of land uses."

Therefore, we hope you will support this proposed use as we believe it will be an asset to the community. Thank you for your consideration.

Sincerely,

Name

Address

Phone

Debra Oshoff 64 William St. Needham MA 781 444-5636

Melanie Stompa 58 William Street Needham, MA 516 425-3008

Yvonne Barker 55 William St Needham MA 781-444-3351

Lan Anh 153 meetinghouse Cir Needham 781 444 898

TAB #4

11. Amend Section 5.5 Signs by deleting "XIX" and inserting "5".

The proper reference to the Needham Sign By-Law is no longer Article XIX but Article 5 of the General By-Laws. The sentence should read: "Signs within the Town are regulated and controlled by Article 5 of the Town's General By-Laws."

12. Amend Section 7.7.2.2 Authority and Specific Powers of the Design Review Board by inserting in the first sentence of the second paragraph between the words "Industrial District" and "Industrial-1 District" the words "Elder Services Zoning District".

When this new zoning district was added, review by the Design Review Board through major site plan review for such projects was arguably included; this amendment would make this clear. The first sentence of the second paragraph should read in relevant part: "The Design Review Board shall review permit applications for all new structures and outdoor uses, exterior additions, exterior alterations and exterior changes in all areas zoned as a...Industrial District, Elder Services Zoning District, Industrial-1 District..."

13. Further amend Section 7.7.2.2 Authority and Specific Powers of the Design Review Board by deleting "XIX" and inserting "5" in the last sentence of the second paragraph.

The proper reference to the Needham Sign By-Law is no longer Article XIX but Article 5 of the General By-Laws. The sentence should read: "The Design Review Board shall also review requests for all sign permits, as required under Article 5 of the Needham General By-Laws."

14. Amend Section 7.7.3 Procedures of the Design Review Board by deleting "XIX" and inserting "5" in the first sentence of the first paragraph.

The proper reference to the Needham Sign By-Law is no longer Article XIX but Article 5 of the General By-Laws. The sentence in relevant part should read: "An application for Design Review Board shall be submitted to the Design Review Board... (See ... Article 5 of the General By-Laws for application procedure for all sign permits.)"

15. Amend Section 7.7.4 Design Criteria of the Design Review Board by deleting "XIX" and inserting "5" in the last sentence of this section.

The proper reference to the Needham Sign By-Law is no longer Article XIX but Article 5 of the General By-Laws. The sentence in relevant part should read: "In addition... the Design Review Board shall review requests for sign permits according to the design guidelines listed in Section 3.5 of Article 5 of the General By-Laws."

Or take any other action relative thereto.

**INSERTED BY: Planning Board
FINNACE COMMITTEE RECOMMENDS THAT:**

Article Information: Over the years, Town Meeting has approved numerous inserts and other changes to the Zoning By-Law. Unfortunately, when these changes occurred, not all references were changed or deleted as required. This article would correct inaccurate references and delete sections no longer applicable.

ARTICLE 9: AMEND ZONING BY-LAW - SCHEDULE OF USE REGULATIONS

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

In Section 3, Use Regulations, Subsection 3.1, Basic Requirements, by adding the following paragraph to the end of the section as follows:

"Notwithstanding the uses set forth in the Schedule of Use Regulations (Section 3.2), in all Industrial, Business, and/or Commercial zoning districts, including Mixed Use-128 the Planning Board may allow by right a use that the Planning Board determines to be in the same general use category and is similar in kind to, and is similar in impact to, a use allowed by Section 3.2 as of right, or by special permit a use that the Planning Board determines to be in the same general use category and is similar in kind to, and is similar in impact to, a use allowed by Section 3.2 by special permit."

Or take any other action relative thereto.

**INSERTED BY: Planning Board
FINNACE COMMITTEE RECOMMENDS THAT:**

Article Information: The ongoing evolution of the types and varieties of businesses outstrips the defined historical uses designated in the By-Law. As a result, many proposed innovative businesses are unable to locate in Needham even though they are similar in kind and impact to those allowed either by right or by special permit. The article would import a measure of flexibility into the By-Law by allowing the Planning Board to determine if a use is similar in intent and impact to one already allowed in a particular district either by right or by special permit. If that use is allowed by right, the Planning Board is authorized, upon finding that it constitutes the same general use, and is similar in intent and impact to one specifically authorized by the By-Law, to allow it by right; if it is a specially permitted use, the Planning Board, upon making the same finding, may allow it by special permit.

CITIZENS' PETITIONS**ARTICLE 10: AMEND ZONING BY-LAW - NEEDHAM CENTER OVERLAY DISTRICT**

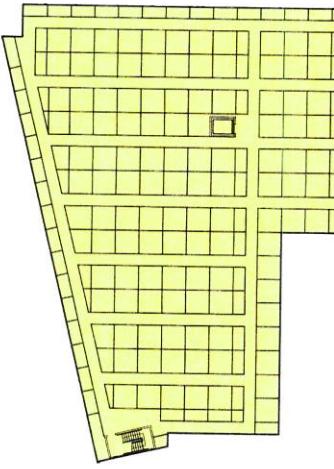
To amend the zoning by-laws, section 3.8.4.2 Building height requirements in the Needham Center Overlay District section (a) to read as follows:

(a) In Sub-District A: The minimum building height shall be two stories and twenty-seven feet and the maximum building height shall be two and one-half stories and thirty-five feet as of right. By Special Permit from the Planning Board, the maximum height of a building may be increased up to the following limits: three stories and thirty-seven (37) feet as shown in the Design Guidelines under Subsection 3.8.8 below.

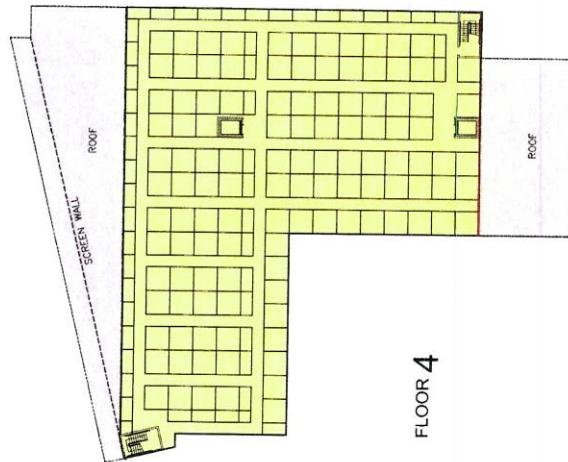
This would be striking out four stories and forty-eight (48) feet. Provided that the fourth story is contained under a pitched roof or recessed from the face of the building ...

To amend the zoning by-laws section 3.9.4.2 Building height requirements in the Lower Chestnut Street Overlay District section (a) to read as follows:

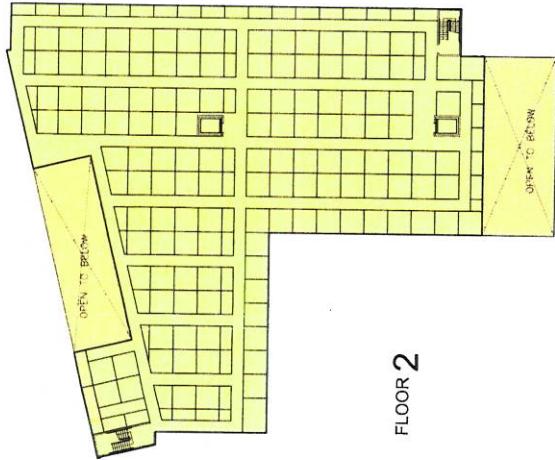
TAB #5



FLOOR 3



FLOOR 4



FLOOR 2

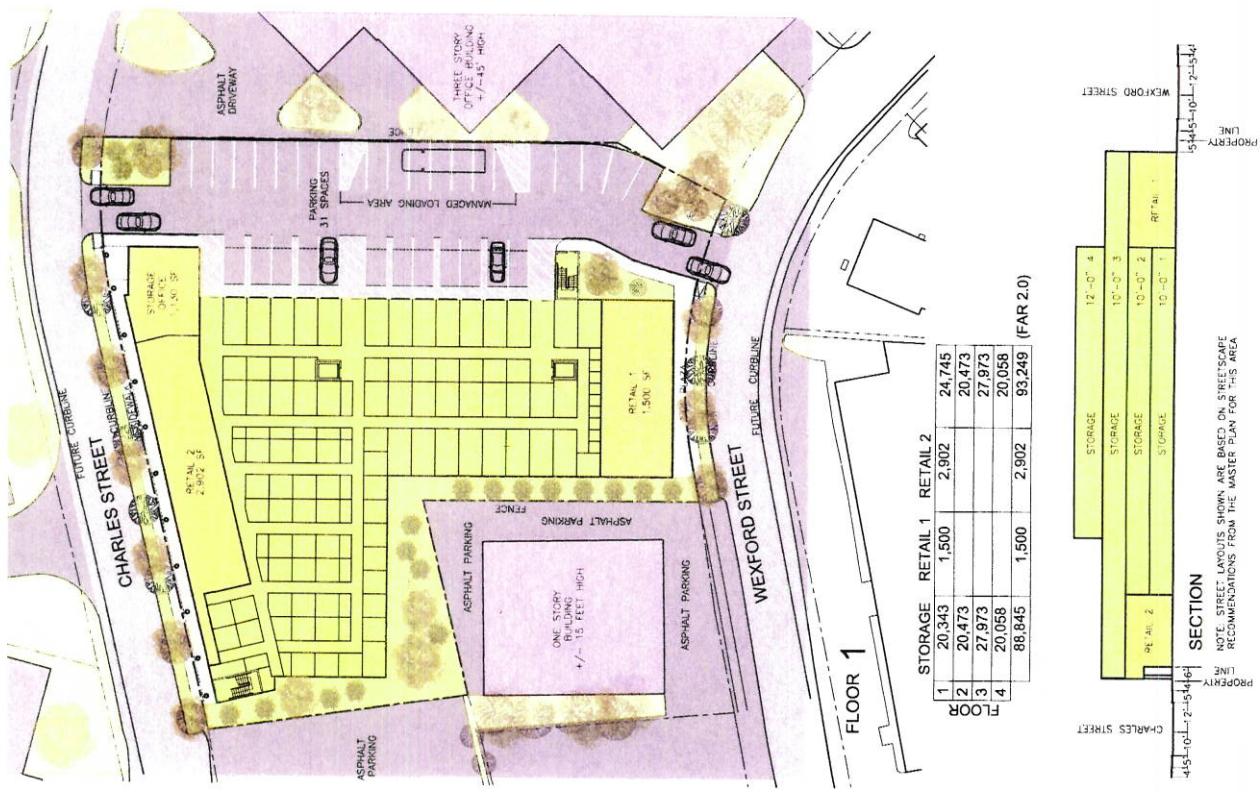
Dimensional Requirements

	MU-1-28	PROPOSED
MINIMUM LOT AREA	10,000 SF	46,647 SF
MINIMUM LOT FRONTAGE	100'	+/- 253' / 129'
MINIMUM OPEN SPACE	9,329 SF (20%)	9,517 SF (13%)
MINIMUM LOT COVERAGE	30,321 SF (65%)	24,745 SF (53%)
MAXIMUM FLOOR AREA	1.0 (2.0 BY SP)	2.0
MAXIMUM BUILDING HEIGHT	54'	42'
FRONT SETBACK	5'	5'
SIDE SETBACK	10'	10'
REAR SETBACK	N/A	N/A

Parking Requirements

	MU-128	PROPOSED
STORAGE	10	12
RETAIL	15 (1:300 SF)	19

Proposed Project
bluehawkNEEDHAM
77 Charles Street ,Needham MA
n.t.s. December 2011



New England Business Center Subcommittee Meeting

October 17, 2001

The sixth meeting of the New England Business Center Subcommittee, held in the Planning Board meeting room at Town Hall, was called to order by Chairman Robert T. Smart, Jr., at 8:00 a.m. with Messrs. Paul Killeen, Jack Cogswell, Roy Cramer, Richard Epstein, Mark Gluesing, and Leigh Doukas present, as well as Planning Director Ms. Newman.

Review of Schedule of Use Table as Contained in the 2001 Annual Town Meeting Warrant and Outstanding Issues Regarding Such Schedule as Expressed by Meeting Participants.

Ms. Newman noted that she had revised the use table to reflect what she understood to be the consensus of the committee to date. Ms. Newman proceeded to take the committee members through the revisions she had made. What follows is the committee's discussion regarding those items in the revised tables with which a member of the subcommittee had an issue. The items discussed are listed below as proposed in the current draft article with the outcome of the discussion noted.

New England Business Center and MixedUse-128 District

Item: Craft, consumer, professional or commercial service established dealing directly with the general public and not enumerated elsewhere in this section – No (NEBC) and Yes (MU-128)

Mr. Killeen stated that this use category should be expanded into the New England Business Center district pursuant to the limitations contained within footnote 2 for the district relative to size and location. It was agreed to allow this use by right in the New England Business Center subject to the size and location limitations contained within footnote 2.

Item: Theaters, indoor moving picture shows, bowling alleys, skating rinks, billiard rooms, and similar commercial amusement or entertainment places - No (NEBC) and Yes (MU-128)

Jack Cogswell stated that he felt this use was not appropriate in the MU-128 district. Richard Epstein concurred. It was agreed to change this use from a yes to a no in the Mixed-Use 128 district.

Item: Veterinary office and/or treatment facility – No (NEBC) and SP (MU-128)

Jack Cogswell questioned whether we wished to allow for this use as stated including the boarding of animals within the MU-128 district. Following discussion it was agreed to permit a veterinary office and/or treatment facility that included convalescent stays but which did not include the boarding of animals in the MU-128 district. The use was to be allowed by Special Permit.

Item: Wholesale distribution facilities or storage in an enclosed structure, excluding the storage of flammable liquids, gas or explosives - Yes (NEBC) and Yes (MU-128)

Jack Cogswell questioned whether we wanted to permit this use by right as it would permit a recycling plant similar to that located at Second and Fourth Avenue and a self-storage type use similar to a Gentle Giant. Paul Killeen noted that the problem with the definition was the inclusion of the term "storage". It was agreed to revise the definition to exclude the reference to a storage facility so that the use category would read "Wholesale distribution facilities in an enclosed structure, excluding the storage of flammable

liquids, gas or explosives". The use would be permitted by right in both the NEBC district and the MU-128 district.

Item: Laboratory engaged in scientific research, experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which may include the development of mock-ups and prototypes but not the manufacture of finished products - Yes (NEBC) and Yes (MU-128)

Item: Light non-nuisance manufacturing, including but not limited to the manufacture of pharmaceutical, bio-pharmaceutical, robotic, and micro-biotic products, provided that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed of in a manner so as not to create a nuisance or hazard to safety or health – Yes (NEBC) and Yes (MU-128)

Bob Smart noted that the laboratory use category should be combined with the light non-nuisance manufacturing category so that the combined use would be permitted by right rather than by special permit. As presently drafted the special permit provision for more than one non-residential use on a lot would require a special permit for this combination of uses. It was agreed that the two uses should be permitted in the same building by right in both the MU-128 and NEBC districts and that the final use table should reflect that intent.

Item: Off-street outdoor parking for vehicles associated with a principal use, located on a separate lot owned or leased by the owner of the land on which the principal use is located, within a zoning district in which the principal use is permitted – SP (NEBC) and SP (MU-128)

Item: Parking garages and/or parking structures for more than three (3) vehicles, including both enclosed and open garages and structures, above and below ground, associated with a principal use, located on a separate lot owned or leased by the owner of the land on which the principal use is located, within a zoning district in which the principal use is permitted - SP (NEBC) and SP (MU-128)

Roy Cramer noted that the definition as presently written would preclude the placement of a parking lot in a zoning district where the use was not authorized. He noted that this would be a problem where a lot crossed a zone line and where a use was disallowed in one of the affected districts. He questioned whether that was a good end result.

Mr. Killeen indicated that he had no concern with it being written so as to give the Special Permit Granting Authority the discretion to issue a special permit for the placement of a parking lot on a lot encompassing two zoning districts where the principal use was not permitted.

Jack Cogswell expressed concern that the definition was written so as to require that the owner of the principal use would need to either own the land or lease the land upon which the parking was provided rather than to just lease the spaces themselves.

Mr. Smart stated that he felt we should be allowing for the construction of a parking garage as a primary use in the NEBC district with the spaces leased to businesses in the general vicinity.

Ms. Doukas stated that we needed to consider the height, lot coverage, FAR and design of the parking garage itself in the proposed zoning.

Jack Cogswell noted that we could not address those issues within the context of the use table.

Paul Killeen suggested that the provision relative to parking garages could be pulled from the use table and made a separate freestanding paragraph. It could state: Notwithstanding the dimensional requirements of the by-law and notwithstanding the use table the Planning Board is authorized to issue a special permit for a parking garage that serves uses located in the NEBC, MU-128 and HC-128 districts, where the parking garage and/or parking structure is located in the immediate vicinity of and on the same side of Highland Avenue as the use it serves, subject to such setback requirements as the Board may impose.

As relates outdoor parking Mr. Killeen further noted that if we are making the decision that parking for one use in one district is allowable in the adjoining district then the language of the outdoor parking provision will need to be changed as the present language is suggestive that it is on a separate lot. He suggested that it might read: Off-street outdoor parking for vehicles associated with a principal use located on a lot that covers two or more districts where the use is not otherwise allowed in the district in which the parking is to be located.

It was agreed to make the revisions noted above as suggested by Mr. Killeen for both the NEBC and MU-128 districts.

Restaurants, business service centers, coffee shops, recreation/health facilities, day care uses, and laundry and dry cleaning pick up stations where processing is done elsewhere in all buildings if said uses do not occupy more than 20% of the total ground floor area of said building or 10,000 sq. ft. per building, whichever is less. In instances where there are multiple buildings on one lot, e.g. a corporate campus, the total allowable area for the uses noted above shall be permitted in up to two freestanding structures or combined into one of the principle buildings.

Jack Cogswell noted that the size limitation within the proposed category would not allow for a destination restaurant in the New England Business Center. He suggested that the item should be written so as to permit a restaurant of up to 10,000 square feet on the ground floor of a principle building in the NEBC district by special permit.

Leigh Doukas stated that a destination restaurant was permitted within the HC-128 district and MU-128 district and that those needing that service could walk or drive to those facilities.

Mr. Killeen stated that he had no problem permitting a restaurant of up to 10,000 square feet in the NEBC provided the use was in a principal building and not in a free standing structure.

In the NEBC district it was agreed to allow by special permit a restaurant use of up to 10,000 square feet of ground floor building area where such restaurant use was accessory to the principal use permitted in the building. It was further agreed that this provision was not be additive to the other uses permitted on the ground floor but was to serve as a substitution use by special permit.

Highland Commercial-128 District

Retail Uses in the HC-128 district

Mr. Killeen noted that this section of the by-law needed to be reworked so as to allow retail establishments of a certain size by right and all other retail establishments by special permit. Mr. Killeen noted that the Planning Board would need to make a determination as to where that threshold should be set.

Laboratory engaged in scientific research, experimental and testing activities including, but not limited to, the fields of biology, genetics, chemistry, electronics, engineering, geology, medicine and physics, which

may include the development of mock-ups and prototypes but not the manufacture of finished products – Yes (HC-128)

Leigh Doukas questioned whether it was appropriate to include this use along the corridor given the goals we have established for that district and the fact that it would tend to disrupt the retail focus.

Mark Gluesing concurred. He felt that if the use were permitted it should be restricted to the second or third floor space.

It was agreed to revise the use so as to allow it on the second and third floors but not on the ground floor.

Light non-nuisance manufacturing providing that all resulting cinders, dust, flashing, fumes, gases, odors, smoke, noise, vibration, refuse matter, vapor, and heat are effectively confined in a building or are disposed in a manner so as not to create a nuisance or hazard to safety or health – No (HC-128)

As drafted this use is not presently allowed in the HC-128 district. Consensus was not reached as to whether or not the section should be revised to permit this use on the second and third floors. The Planning Board will make a determination as to how this issue will be handled.

Off-street outdoor parking for vehicles associated with a principal use, located on a separate lot owned or leased by the owner of the land on which the principal use is located, within a zoning district in which the principal use is permitted – SP (HC-128)

Parking garages and/or parking structures for more than three (3) vehicles, including both enclosed and open garages and structures, above and below ground, associated with a principal use, located on a separate lot owned or leased by the owner of the land on which the principal use is located, within a zoning district in which the principal use is permitted – SP (HC-128)

It was agreed to revise these sections of the table to reflect the changes agreed to for the NEBC district and the Mixed Use-128 district.

Upcoming meeting.

It was agreed that the next meeting of the subcommittee would take place on Friday, October 26, 2001, at 8:00 a.m. in the Planning Board meeting room of the Town Hall. On the agenda for that meeting would be a review of the density and dimensional requirements contained in the by-law as currently proposed for each of the three zoning districts.



**TOWN of NEEDHAM
MASSACHUSETTS**

**PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
Economic Development**

781-455-7550 x213

**MEETING OF THE COUNCIL OF ECONOMIC ADVISORS
WEDNESDAY, December 5, 2018 7:30 AM
Charles River Room
Public Services Administration Building
500 Dedham Avenue**

Present: Adam Block, Chair; Adam Meixner; Rick Putprush; Moe Handel; Bob Hentschel; Glen Cammarano; Stuart Agler; Virginia Fleisher; Michael Wilcox; Tina Burgos; Anne Marie Dowd; and Devra Bailin.

Not Present: Matt Talcoff; Ted Owens; Peter Atallah; and Bill Day.

Also Present: Greg Reibman; Robert Smart; Paul Ferreira; Eric Vogel; Josy Pan; and David Gordon.

I. Approval of Minutes

The Minutes of November 7, 2018 were unanimously approved.

II. Reminder of Next Meeting Dates

Our next meeting is scheduled for January 2nd, 2019 in the Charles River Room. Future meetings will be scheduled for the first Wednesday of the month (unless a holiday) in the Charles River Room at PSAB. Devra sent out next year's calendar invites to members.

III. Discussion of Self-Storage Uses

Members were reminded that Belmont Landscaping at 540 Hillside Avenue recently sold to a self-storage business, which obtained a special permit from the Planning Board for the use in that industrial district as a specially permitted "any lawful purpose or special use not enumerated elsewhere in this By-Law". Robert Smart is the attorney representing Blue Hawk Investments which is seeking a zoning change to allow the use in the Mixed Use-128 area to allow another self-storage facility at 77 Charles Street. Robert Smart and Paul Ferreira were before the members leave to make a presentation about their proposal. Adam B. explained that the role of the Council is not in assessing individual applicants for particular uses; the CEA's role is to look at macro-economic elements as to uses and their potential economic impact on surrounding properties and potential to incent maximum development of

the area. In other words, the members are not here to discuss the merits of a particular proposal or application—that belongs, in this case, to the Planning Board.

Bob Smart explained that they were before the CEA to enlist business support for their proposal to add self-storage to the listed special permit uses in Mixed Use-128. He noted that the members supported a citizen petition to amend the By-Law which allowed boarding of animals at an animal hotel in the district. He noted the use was not listed in the Zoning By-Law at all. It is also undefined. He pointed out that it behooves the Town to be clearer on uses in the use tables, as it makes it difficult for new businesses to open in Needham. (In response to a question by a member, Devra explained that some flexibility was inserted into the By-Law by the adoption of the Determination of Use By-Law, which permits the Planning Board to determine if a use is similar in kind and impact to a use allowed by right or special permit.) Bob Smart argued that the use is appropriate to the Mixed Use-128 district because it is low impact, replaces the structures with a new attractive building, including a landscaped buffer and public access community room, and increases tax revenues. The use in this zoning district requires a zoning amendment, which he said he has drafted. The CEA has not seen nor reviewed such amendment.

The structure proposed is a multilevel self-storage facility. Renderings were shared with the members. Paul stated that it represents the highest and best use for the property and a good use for the neighborhood. Although not determined yet, it is proposed to have retail, restaurant and/or community space in a portion of the first floor, especially on the frontage of Wexford/Charles. The proposal is not yet in front of the Planning Board. They have looked at the economic need to an additional self-storage facility and believe that the market can support this facility along with the Hillside Avenue and Needham Street facilities.

Moe noted that this is a matter for the Planning Board; that the CEA can offer advice to the Planning Board if asked to do so but to date we haven't been asked; and that we cannot make recommendations on particular applications pending before other boards for decision.

Adam M. commented that there is a growing need for self-storage and he feels it is needed, especially in the commercial market. Landlords have been converting basement storage into usable office space and/or amenity centers, forcing tenants to find alternative storage space. Paul explained that about 2/3 of the current use of self-storage is for residential customers; 1/3 for businesses. He doesn't think business would be distributing out of the building.

Rick asked about what was proposed for the street frontage, as that is important for assessing whether it meets the goals set out in the zoning. The Town wanted and passed the new zoning to activate certain uses, which hasn't happened yet. Members asked how this building/use will move toward those goals. Paul said no decision has been made for those non-self-storage areas.

Stu asked about the number of units being proposed. Paul said they are looking at an FAR of 2.0, which is the allowed density for low traffic uses. He noted that the Hillside Avenue facility is about 123,000 sq. ft., which was determined to have a 14 space parking requirement. Their facility would be 93,000 sq. ft. and the building would triple the real estate tax revenue. Moe noted that most commercial uses, like offices, bring with them tax revenue from personal property tax, which they should look into.

Rick and Bob noted that they did not believe the personal property tax would apply to stored items (unless taxable to their owners).

Devra noted that she had discussed this use with Bob Smart and expressed concern about the use not meeting the goals of an active interconnected urban environment. But she added that the uses proposed on the street frontages may be important to the evaluation of the building's contribution to those goals in the Planning Board's evaluation of the project. A zoning amendment would not have to require active streetscape uses, such as retail, restaurants, consumer services, etc.; but it might be more consistent with district goals to tie any special permit for self-storage to active streetscape uses open to the general public.

Bob commented that he is in favor of the approach of clarifying uses in the By-Law and defining terms. Glen agreed that we should expand uses allowed by right and commented that the uses in the By-Law are too restrictive. Way too much process is required for businesses to open in Needham.

It was noted that the issue of uses allowed by right and by special permit is a bigger issue to be discussed with the Planning Board at Chair/Vice Chair meetings.

IV. Discussion of Gordon Liquor License

David Gordon of Gordon Liquor's explained that they had sought an all alcohol retail license which the Select Board denied, along with Volante Farm's request for same. They are reapplying for just a beer and wine license. Adam B. reiterated his explanation, previously given on the self-storage issue, to David so that he understood the limitations of our role. Moe reiterated that, since Gordon's will be applying to the Select Board for its license, the CEA cannot make recommendations on a specific pending application. Adam B. explained that this advisory council is focused on broader economic impacts and benefits of certain types of businesses and land uses in specific commercial districts.

David explained that they are in a niche market and trying to build on it at a new location at 79 Wexford Street—it is experiential retail, focusing on high end consumers, as well as online purchasers. They offer essentially a personal shopping service for unique and/or more expensive product. Given the "white papers" prepared by the Wine Shop Subcommittee of the CEA in 2012 before retail sales of alcohol were allowed, Virginia suggested that we should try to understand the impact on the existing Needham market. David indicated that their concept has very minimal impact on other vendors in the Needham market; he doesn't see it as competition to existing vendors. Adam B. mentioned that the CEA does not have the capacity at this time to conduct an economic impact analysis of the retail alcohol market.

Adam M. indicated that he has known David for 35 years and is very familiar with Gordon Liquor's other sites. They are very high end. He views the use as one which could energize the area, which has seen very little turnover. David described his business concept as a low impact business use, having what he believes will be roughly two customers per hour, small outbound van deliveries, and small vehicle deliveries of inventory and other business supplies to the store.

One issue, which the CEA has been unable to study given the time frame of the request for input, is whether the Needham market is saturated or whether it can support another vendor. It was suggested

and agreed that Devra should start the process of contacting those individuals in the industry who provided information to the Wine Shop Subcommittee back in 2012 and update our information. Glen, Stu, and Rick agreed to serve on the group to restudy this.

Moe explained that the number of liquor licenses is limited by statute; the amount that Needham got approved through Home Rule was less than the statutory maximum. At the present time the Select Board has one all alcohol license left and two more wine and beer. (The Board has approved four all alcohol and one wine and beer.) Adam B. explained that the Select Board is not looking for a vote from us on this.

Stu felt that doing something in that area to spur on development is important. He thinks this kind of high end business would encourage that trend. Bob felt that this particular use would be less likely to impact competitors already in the market than another package store. Greg thought this use would enliven the area by bringing in something upscale and a new use. Tina commented on the need to support experiential retail—that is the way true retail can survive and prosper in our local economy. Other comments included: (1) whether this type of low impact use is really a plus to the area in that this low impact use will not create a vibrant street presence and (2) concern that incremental changes which are not consistent with an engaging streetscape presence may undercut future changes more likely to obtain the goals.

Adam B. indicated that we should report to the Select Board our conversation about this. Even though we have been unable to conduct any research, we should create an initial memorandum to the Select Board and offer our thoughts as discussed at this meeting.

V. Update from Downtown Subcommittee

Devra noted that the Needham Lights event on Saturday was highly successful. She reminded members that the Needham Winter Arts Festival will be in Town Hall on Saturday December 8th from 10-3. She hopes that members will support local artists as well as the downtown businesses for their holiday shopping.

Tina commented that the Needham Lights event did not assist her business in anyway. She will come to our meeting next time with suggestions about how to improve business, including her suggestion that the holiday stroll be separated from Needham Lights and held on Small Business Saturday instead.

Due to time constraints, this topic was not discussed further.

VI. Update on Industrial Zoning

Due to time constraints, this topic was not discussed.

VII. Update on Chestnut Street Zoning

Due to time constraints, this topic was not discussed.

VIII. Discussion of Needham Crossing Branding

Due to time constraints, this topic was not discussed.

IX. Discussion of CEA priorities/future goals

Due to time constraints, this topic was not discussed.

X. Update on Needham Crossing/N² Innovation District

As noted previously, Coca Cola is shutting down its processing plant and turning the location into a distribution center only. Mike noted that he and Normandy had met with Coca Cola of Northern New England's representative, Shayne Durant, to talk about screening, truck queuing on Third Avenue, and noise (particularly impacting Residence Inn). Since the decision to change the purpose of the facility, Mike has reconnected and advises that Shayne would be willing to meet with the CEA. It is not clear what the impacts of the change of use will be on traffic (although trucks will likely be smaller).

Due to time constraints, this topic was not discussed further.

XI Update on Infrastructure Improvements in Needham Crossing

Due to time constraints, this topic was not discussed.

XII. Other Business

Adam B. reminded members that he is looking to set up Chair/Vice Chair meetings with both the Select Board and the Planning Board. There is a real need to fill the Vice Chair position, whereupon Anne Marie volunteered.

XIII. Adjourn

The meeting was adjourned at approximately 9:50 a.m.



**TOWN of NEEDHAM
MASSACHUSETTS**

**PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
Economic Development**
781-455-7550 x213

**MEETING OF THE COUNCIL OF ECONOMIC ADVISORS
WEDNESDAY, May 1, 2019 7:30 AM
Charles River Room
Public Services Administration Building
500 Dedham Avenue**

Present: Adam Block, Chair; Virginia Fleisher; Rick Putprush; Moe Handel; Glen Cammarano; Michael Wilcox; Bob Hentschel; Adam Meixner; Ted Owens; Stuart Agler; David Montgomery and Devra Bailin.

Not Present: Anne Marie Dowd; Matt Talcoff; Bill Day; and Tina Burgos.

I. Approval of Minutes

The Minutes of April 3, 2019, with an amendment of Rick's comments on page two revised to read "Rick was curious as to why the owner purchased the property when the use being proposed for it was not a use allowed by the zoning.", were unanimously approved.

II. Reminder of Next Meeting Dates

Our next meeting is scheduled for June 5, 2019 in the Charles River Room. There was discussion of whether we should try starting at 8:00 instead. Several members expressed concern about going past 9:00. It was decided to try a later start date. Members expressed support in trying to keep the meetings to an hour or so. Items of critical importance will be put at the beginning of the Agenda to allow those who have to leave to participate as fully as possible. Future meetings will be scheduled for the first Wednesday of the month (unless a holiday) in the Charles River Room at PSAB.

III. Update on Citizens' Petition for Self-Storage Proposed Zoning Change in Mixed Use-128

The Citizens' Petition has been withdrawn due to lack of support from the Planning Board and other parties. Devra noted that the comments from the members were helpful to both the Select and Planning Boards. A key concern was the fact that a special permit could not be denied solely because of the use—there had to be a reason like traffic, access, parking, etc. to deny a permit where the use was allowed. This could have resulted in multiple storage facilities in the area.

IV. Discussion of CEA Priorities/Future Goals

Members were provided with copies of Adam B.'s and Anne Marie's draft CEA 2019 Priorities, Devra's How to effectuate streamlining changes (with numbers relating to Topics of Discussion) dated February 23, 2017, and Topics of Discussion with Lee Newman's comments dated November 2, 2016.

Adam B. noted that our discussion of priorities and goals is bleeding too far into the year to formalize goals for 2019. He proposes we restart the process in September in order to finalize 2020 goals and priorities.

1. **Study, investigate and appraise town-wide economic conditions and trends.** Under new initiatives, we included creating a balanced scorecard of Needham's economic performance. It was reported that the Babson MCFE students did not choose our economic scorecard project application. Adam B. will reach out to see if the MBA students might be interested. Devra noted that it might be a reasonable project to give to the Babson club. There was considerable discussion about what questions we would be asking. Ted commented on the frequency (or lack thereof) with which available data changes. Devra agreed, noting that much available data is from the last census (2010) and is regional rather than Needham specific. An exception would be information provided by Mary Burke, a senior economist with the Federal Reserve Bank of Boston, who provides more local data during her yearly presentations to the Chamber on the economy and commercial economic development overview.

Stu asked what information are we collecting that is valuable/useful in determining and directing policy? What exactly are the questions? Rick noted that the Economic Scorecard Devra circulated from Charleston is regional and isn't terribly helpful in figuring out questions specific to Needham. Aren't we back to questions like: how do we increase foot traffic and improve the vitality of the downtown? Moe asked how we quantify the economic health of our local businesses, which should be one focus. Devra noted that a more general question relates to the percentage of real estate tax revenues which come from the commercial base. Do we have a priority or goal to increase those revenues and to what percentage? Back to 20+%?

2. **Promote, assist and encourage the preservation, development, and location of new and existing businesses.** With respect to the downtown, we have received the Select Board's support in installing parking signage, a pilot program for snow removal in the downtown (if Town Meeting approves the purchase of a special vehicle), and possible solutions to improve traffic before the train signal on Great Plain. New initiatives are reflected in Goals document. Adam B., Anne Marie and Devra will work to get on site selection lists.

It was noted that one of the limitations on Needham is the very small floor plates in our downtown. Although we have destination restaurants, we have not been able to leverage that to increase the success of locally owned independent retailers and other businesses. Parking remains a critical problem, especially because of the loss of spaces occasioned by the construction of the Police/Fire station. The signage to designate parking areas from the main streets has been approved but not yet installed. Adam M. commented that Rockville Center NY is known for its restaurants—the stores around them are open and night life is active. How do we recreate that here? Outdoor seating? Stores open at night? Streetscape amenities?

In terms of getting the word out, NAIOP is providing a great opportunity to show off. N2/Needham Crossing will be featured on the Tour on June 5th. The tour will include N2 sites in Needham Crossing (e.g.,SharkNinja) and Newton (e.g.Wells Office and Northland's proposed Needham Street development).

3. **Assist the town in attracting the preferred mix of goods, services, housing, recreation and entertainment in the appropriate districts.** A list of new initiatives is in the Goals document. Devra, Adam B. and Anne Marie will work with Mass Development to try to get a grant to study Chestnut Street and/or Wexford. Getting ideas on how to proceed in both areas will be very helpful.
4. **Make recommendations on improving permitting and licensing functions in the town.** Ted noted that the Planning Board consists of five individual members, and that it would be a mistake to think of the Planning Board as a monolithic entity. The demands on the Planning Board's time generally mean that more time is spent on permitting issues than actual planning. It is suggested that Devra, Rick, Bob and Ted work together to move beyond the items currently on the streamlining list. Devra noted that Town projects tend to get fast-tracked and that Town departments do not always make private projects a priority. There are certain structural issues in the public sector than impede progress. Mike noted that Wellesley just went to an online application process and suggests that perhaps we can learn something from it. To make changes, there needs to be direction from the Select Board and the Planning Board.
5. **Evaluate and advise the Town on ideas for zoning changes that will improve the economic vitality of the town.** As noted in the Goals, we were successful in promoting a private proposal to allow multifamily housing above commercial uses in the Neighborhood Business District along Central Avenue. We are still working to achieve the changes to Highway Commercial 1. We need to continue our work on Highway Commercial 2 and 3. Ted welcomes our assistance in studying the rest of Chestnut Street to remove zoning impediments to development. It is a sufficient challenge to deal with the multitude of small owners but without changes to the zoning there's no incentive to invest. We will look to see if Mass Development TAP grants could help us with either Wexford or Chestnut.
6. **Advise and make recommendations to appropriate officials, agencies, boards and town departments on issues of economic development.** See above. Devra noted that she and Anne Marie, at the request of Public Facilities, will be looking into the possibility of the Town purchasing the Army land on East Militia Road with the assistance of Mass Development.

V. Update on Industrial Zoning (HC1)

A workshop between the Select Board and the Planning Board is being arranged to discuss the zoning. Devra will also be present. It is anticipated that the workshop will be facilitated by the consultant hired by the Planning Department to provide three dimensional drawings. The plan is to get this zoning on the fall Town Meeting Warrant.

VI. Update on Chestnut Street Zoning

This matter is on the Warrant for Town Meeting.

VII. Update on Needham Crossing/N² Innovation District

The N2/Needham Crossing Corporation paid for Graffito to do a report on placemaking, signage, encouraging shared services (e.g. food trucks), access to natural amenities, and the like in Needham Crossing. Several members, including Mike, Bob, Virginia, and Adam M., attended the Needham Crossing Owners' Meeting on Monday, where Gustavo Quiroga of Graffito made a presentation. Members reported that the presentation was very exciting and created a lot of enthusiasm for the program. Coca Cola expressed a desire to make sure their improvements comport with the vision of the streetscape (including even brick and wrought iron fencing as they did in East Hartford). The Town expressed a willingness to do its share—we are trying to obtain streetscape design funds. If we cannot obtain any from MAPC, it is probable it will be a warrant item in the fall. Boston Properties, the owner of the PTC site, was present. Normandy was not in attendance but Devra will ask if she can get a copy of the Graffito report.

Devra and Mike are continuing their work on new N2 signage. Devra sent a request to Boston Properties to use their Kendrick lawn for a sign and is working with them to develop a gateway sign they can approve. The Town Manager is asking DCR for use of their property to put another gateway sign on the property on the right as you come over the bridge from Nahanton Street. We will also be refacing the existing five Needham Crossing signs with the new logo. Devra will begin the permitting soon.

VIII. Update on Infrastructure Improvements in Needham Crossing

Devra noted that the intersection of Oak, Christina and Needham Street, Newton's MassWork's grant, has begun. There is still no word on the actual start date on the Corridor Project but the bid documents are not expected to go out until the fall (originally it was summer).

IX. Update from Downtown Subcommittee

Devra noted that she prepared and submitted to the local papers a shop local letter. Because spring is a time when retail purchases increase, one of the local businesses asked her to do so. Hometown Weekly will publish it as a letter to the editor and the Town will post it. No word from Needham Times. There were no other updates at this time.

X. Other Business

Due to time constraints, this item was not discussed.

XI. Adjourn

The meeting was adjourned at approximately 9:00 a.m.

Alexandra Clee

From: Ronald W. Ruth <RW.Ruth@sherin.com>
Sent: Saturday, February 15, 2020 7:02 PM
To: Marty Jacobs; Ted Owens; Alexandra Clee; Lee Newman
Subject: Charles Street application for self storage

Chairman Jacobs (Marty), Ted, Lee and Alex (I don't have current email addresses of the other members, please distribute if possible):

I am writing about the application which will be heard Tuesday night at the Planning Board meeting.

As you know between the Northland project and the reconstruction of Highland Ave. the Charles Street area will be transformed by millions of dollars of public and private investments in the next few years. Development interest in the Charles Street area is likely to be stimulated. As land values increase, the current small lots inevitably will be consolidated. The higher value development envisioned by the MU 128 zoning will occur.

But this high potential will be forfeited if the approval is granted. Not only will this storage facility be developed but it will be impossible for the Planning Board to decline subsequent applications from other public storage facilities in the MU 128 district.

The Board can deny this current application because the application's reliance on Section 3.1 is misplaced. The MU 128 description of wholesale distribution facilities 3.2.6.1(i) does not include "storage". The corresponding description in the Industrial district (section 3.2.1) includes the word "storage". The difference is critical. Storage was not intended to be permitted in the MU 128 district.

The Board's authority under Section 3.1 to address ambiguity and uncertainty by allowing uses not expressly noted in the Use Table does not authorize the Board to alter the zoning bylaw.

Also, the storage facility recently allowed in the Industrial district on Hillside Street was permitted by special permit. Section 3.1 limits the Board's authority to analogize based only on uses allowed "by right".

Finally, the Board when acting under Section 3.1 needs to interpret each zoning district on its own and not analogize across districts. For an "as of right use" to be comparable for purposes of Section 3.1 it needs to be "as of right" in the applicable district, not a different district also within the ambit of Section 3.1. The present application mixes and matches between districts to avoid the application's fatal problem arising from the absence of the word "storage" in Section 3.2.6.1.

Thank you for your thoughtful consideration of this matter.

Ron

Ronald W. Ruth
248 Warren St.
Needham, MA 02492

Alexandra Clee

From: Bill Curtis <Bcurtis@Cressetgroup.com>
Sent: Tuesday, February 18, 2020 10:43 AM
To: Alexandra Clee
Subject: Self-Storage MU-128 District

Hi Alexandra,

I only recently heard about this evening's hearing on the self-storage use determination in the MU-128 district. I would very much like the planning board members to have the benefit of my letter attached. Can you please confirm they can receive this letter prior to this evening's hearing?

Thank you for your assistance on this matter.

Bill

Dear Planning Board Members,

I only just learned of the application for Determination of Proposed Use for self-storage in the MU-128 District and I'm writing to you to express my opposition. I'm a Boston based developer with significant interest in the Highland Ave/Needham St. corridor because of its great development potential. I wrote you a year ago when there was a request for recommendation to change the zoning in the MU-128 District to allow self-storage. The Planning Board correctly rejected that request.

It's my view that allowing self-storage use in this significant tax base district conflicts with and adversely impacts its long range vision of creating a district of higher and better uses with "pedestrian character" that is "lively and walkable" like what is taking place across the river in Newton.

Storage is an inactive, vehicle dependent use that will obstruct parcel assembly. Studies have shown self-storage is last in terms of spurring economic activity. If allowed, the current tsunami of storage developments in the metro will quickly consume some of the small parcels making future parcel assembly prohibitively expensive, dramatically changing the complexion of this district and its future development potential.

Although this proposal is from a single property owner, it will change the entire gateway district and potentially other zoning districts. And, if approved, Needham will certainly see more applications for these large "franchise architecture" boxes.

I respectfully request that you reject this proposal.

Thank you,

Respectfully,

Bill Curtis

William G. Curtis V
Principal
Cresset
120 Water Street

Boston, MA 02109
(617) 624-9100
www.cressetgroup.com



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NEEDHAM PLANNING BOARD MINUTES

October 22, 2019

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, October 22, 2019, at 7:00 p.m. with Mr. Alpert and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

ANR Plan – Boston Ventures International, LLC, Petitioner (Property located at 23 Dwight Road, Needham, MA).

Robert Bibbo, Engineer for Bibbo Bros., stated the applicant is creating an additional house lot with 170 feet of frontage and 16,000 square feet of area. The current house will remain on one lot with 27,000 square feet of land. Both lots have adequate frontage and meet all setback requirements. He noted this is a private road. Mr. Jacobs stated the side yard setback is 14 feet. The A1 lot line is 12.43 feet from the ~~rear~~ deck. Mr. Bibbo stated he was told there is a provision for the deck to go into the side yard setback. If this is not correct, he can change it. Ms. Newman noted there is a provision and the Building Inspector has looked at this.

Ms. McKnight asked if this was an older house the applicant is saving. Mr. Bibbo noted it is a 1950s house. Mr. Jacobs asked why Lot 2-A is not shown in the table. Mr. Bibbo stated it was on but he was told to remove it. Ms. Newman stated, as an empty lot, it makes no sense showing it with setbacks. Engineering and the Building Inspector are fine with it.

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

VOTED: to approve-endorse the plan as Approval Not Required.

Decision: Amendment: Rockwood Lane Definitive Subdivision: Wayside Realty Trust, Chris Kotsopoulos, Owner and Trustee, 36 Rockwood Lane, Needham, MA, Original Petitioner (current owners: Hillcrest Development, Inc., and Elite Homebuilders, LLC), (Property located at Rockwood Lane consists of the dwellings currently numbered 38, 45, 46, 52, 55, 58, 63, 64 and 69 Rockwood Lane and one adjacent parcel, Needham, MA, Assessors Plan No. 17 as Parcels 71, 72, 73, 79 and 80 and Plan No. 20 as Parcels 86, 87, 88, 89 and 63),

Ms. Newman stated the draft decision is based on the Board's last meeting. The attorney for the applicant has reviewed it and has no issue. There were no changes at the last meeting. Mr. Jacobs asked if there was an issue with adding a paragraph saying "The Board has been concerned, specifically by Exhibit 18 and 19, that the drainage solution is at least as good as that which was originally approved." Mr. Alpert disagreed. He does not want to say that. The Board is relying on representation from the Town Engineer that is the case. Mr. Jacobs felt the Board could say "relying on Exhibits 18 and 19, the Board hereby approves" at the beginning of paragraph 1. All agreed. A motion was made to add this. Ms. Newman feels that is too narrow. Mr. Jacobs stated Exhibit 15 should be added.

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

VOTED: to say "Relying on Exhibits 15, 18 and 19, the Board approves the Definitive Subdivision Amendment as shown on the Plan in the Subdivision approval."

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

VOTED: to accept-approve the draft decision as just altered.

Appointments:

7:05 p.m. – Zoning Board of Appeals: discussion regarding Accessory Dwelling Units zoning proposal.

John Schneider, of the Zoning Board of Appeals (ZBA), noted 4 of the 5 ~~Board~~ZBA members were at the hearing and there is unanimous support for the ADU article. The Zoning By-Law already authorizes~~s~~ by Special Permit taking 4 non-related boarders into the home. This is only changing cooking facilities. There is no great change in the Zoning By-Law. He stated he has been on the Zoning Board of Appeals for over 25 years and only 2 or 3 people have come in for Special Permits. He commented he has some problems with the Article as currently drafted. His main concern is there is no standard for Special Permits. Mr. Jacobs stated there is no section that says these are the decision criteria. He asked if the ZBA views the requirements as the decision criteria?

Mr. Schneider stated he finds the definition of family to be strangely narrow. Why not grandparents, aunts and uncles as family members to live in the house -and to be taken care of? He feels the Board needs to deal with the transfer of ownership and LLCs. It could say “transfers of controlling interest.” The Planning Board has been silent on the issue. He is also concerned with enforcement. The Planning Board should put in a provision that the Building Inspector could request evidence of a relationship of the person living in the unit. Ms. McKnight stated the initial permit is issued based on who is living there. Mr. Alpert noted it will be part of the renewal process. Ms. Schneider feels the Building Inspector should have the right to request documentation.

Ms. McKnight discussed the criteria concern. There are criteria built in. This needs some judgment exercised. The Building Inspector will look into any complaints. She noted there are standards of criteria and enforcement built in. She feels this may puts a burden on the ZBA. She wants to make sure the ZBA does not feel this is a burden for them. She anticipates some Town Meeting members may move to amend to include some of the relations discussed. Mr. Schneider stated the ZBA will go along with whatever the Planning Board has recommended, but this is strangely narrow. He feels there will be a lot of call for other relations.

7:20 p.m. – Discussion regarding Mixed-Use Retail/Self Storage Redevelopment – 77 Charles Street.

Kevin Joyce, attorney for the applicant, noted he sent in a number of materials back in early June. He reviewed the Zoning By-Law and believes the Planning Board has the authority to grant a Special Permit for the proposed use. He outlined the legal reasons. Under the Hillsdale decision it was determined to be allowable by Special Permit. He is ok with that for now. Mr. Jacobs noted in Mr. Pare's letter, third paragraph, the Planning Board does did not reject as of right for Hillsdale development; but rather convinced the petitioner that the special permit route was appropriate. Mr. Ferreira, owner of 77 Charles Street, stated he feels it is unlikely he will be coming forward with an as of right project; all of their conversations have been about a special permit process. Mr. Joyce updated what has been done. He asked if a Special Permit process is what should be embrace~~d~~ in the beginning and begin. Ms. Newman asked what use the applicant is identifying as similar to (either as of right or by special permit). Mr. Joyce stated the Board has already approved this use in a similar district. Board has already allowed the self storage use in a similar district, and therefore also applies by Section 3.2. This is in the same general use category and similar in kind and similar in impact to a use already permitted; and by Section 3.2 may be approved by the Planning Board as allowed.

Mr. Alpert stated it has to be a use allowed in the district and not just somewhere in the whole town.

Mr. Ferreira noted there has been a lot of discussion of support for the project. He started with a zoning amendment and pulled back. He is going back to the initial position. He still maintains putting a self storage is the only feasible option given the economics. He has put close to have about 6,000 square feet of retail in the area. He feels the Board should allow this use to go forward by Special Permit with the interpretation suggested. They are also willing to pursue a zoning change at Town Meeting. He thinks this is a consumer service establishment. Marlboro and several other towns in Massachusetts have relied on this definition of storage units as consumer services. Ms. McKnight stated she sees consumer service establishment as a service directly provided such as photocopying and not a storage unit.

Mr. Ferreira stated there has been a lot of discussion regarding the passivity of the use and such use not being the intent of the Board for the district. He feels this should be looked at as a small retail project. Other uses do not

work and larger retail is not feasible. This fits with the parking requirements and is a service in great demand. There is a lot of functionality to self storage. He has tried to address the ugliness of them with the design and feels it is a handsome building. He would request the Board reconsider some items. Mr. Alpert asked what the floor size the applicant is offering for retail and self storage. Mr. Ferreira stated there is no retail. It is a consumer services as of right. He noted 1.0 FAR triggers a special permit. Ms. Newman explained that the self-storage use on Hillside was allowed by a provision that allowed the Board to grant a special permit for a use not otherwise called out in the By-Law. She explained that the section they are pointing to allows the Board to find a use to be similar in kind and impact to another use already allowed in a particular zoning district. -Mr. Jacobs said he is interested in the argument that it might be a consumer service. He likes the use but would need it to work under the By-Law. Mr. Ferreira said that Westwood put a radius requirement in its zoning to limit these. Mr. Joyee stated he views this like the cell tower issue. It took years to get cell towers covered and he feels this is the same.

Mr. Alpert stated he feels this use fits in their the Board's vision for the Mixed Use 128 District. He likes the comparison this is similar to a Consumer Services Establishment. - Mr. Ferreira said that a telecommunications facility, which is an allowable use, usually very few employees. -The Board discussed some of the history of the current language of the zoning district.

It was noted there will be 2 cars and 2 employees. A discussion ensued regarding next steps. Mr. Ferreira said he can provide examples of radius requirement in zoning and where it's been considered a consumer service elsewhere. Mr. Jacobs stated he needs to be convinced of the use issue, not the issue of whether they can make it presentable. It may be as of right or could be like a use in the district. Mr. Ferreira requested guidance from the Board. Mr. Alpert is reluctant to give too much guidance in case the votes are not there in advance of an actual application. He commented the applicant needs to file an application and convince the Board why this fits a consumer services use. Ms. McKnight noted a storage facility has been approved for Hillside but has not yet been constructed. She suggested the applicant wait so people can see what it looks like.

7:40 p.m. – Discussion regarding Pediatric Medical Facility Zoning Article – Children’s Hospital.

Robert Smart, representative for the applicant, noted Children's Hospital wants to put a pediatric facility next to the Trip Advisor building at 380 First Avenue and 37 A Street. There is some parking on site. A pediatric facility is not allowed per the zoning. He has drafted an article and wants input from the Board. He has had conversations with BI Deaconess and they have no issue with Children's Hospital coming to Needham. This will be a satellite facility. Lisa Haggerty noted a map of other the satellite locations in the packet. The hospital has developed a network of satellites to give care close to home. They work with other hospitals and doctors with specialty care and not primary care. They want to shift out of the main hospital to be more convenient to neighborhood locations.

Ms. McKnight clarified the focus is on specialty care and not primary care. Ms. Haggerty stated yes. There are geographical gaps between Waltham and Weymouth. The hospital wants to focus on the surgical specialty side. Ms. McKnight asked if they have any partnerships with community hospitals here. Ms. Haggerty noted Winchester Hospital and she has worked with the Building Inspector in Needham for pediatric issues. The Building Inspector would like more support and collaboration. She noted the hospital would like to set up an innovation and training center in conjunction with BID Needham. The access to the location is excellent. There would be a parking garage built next to the current garage. They will be creating a pediatric ambulatory surgical center with state of the art labs and an education training center with several clinical and therapeutic services such as orthopedic, sports medicine and sub specialties. There will be state of the art operating rooms, pediatric imaging and a lab.

Mr. Jacobs clarified there is no inpatient care. Ms. Haggerty noted there will be no beds at this facility. She stated the pediatric ambulatory space is to be licensed by the MA Department of Health. There will be medical office space, food service and a small medical device company with crutches, braces and such, who will lease space. The hospital feels a responsibility to the community. The hospital will pay 100% of assessed real estate taxes and will be a hub for clinical research and education. This will create 400 permanent jobs and 225 construction jobs per month. It is non-profit.

Tim Sullivan gave an overview of the zoning. This is 13.5 acres and there is a special permit that has been amended a number of times. He feels this fits within the special permit framework but some of the uses are not allowed. The ambulatory aspect is outside the allowed uses. They are proposing an amendment that would allow pediatric medical facilities. He looked at the medical overlay district. Ms. McKnight asked what age young adults are. Ms. Haggerty stated usually 16 to 22. There are a lot of orthopedic patients who have grown up with issues. The hospital tries to see them through to adulthood.

It was requested by an audience member that the applicant talk about the pilot payments in Waltham. Ms. Haggerty stated the hospital pays real estate tax. There are tenants and the tax is paid through leases. It was asked if there would be something in writing to ensure it. Mr. Sullivan noted, if rezoned, a pilot agreement econdition would be condition part of that. It would also be a condition of a special permit. Ms. McKnight noted she would like to learn more about pilot real estate agreements. Mr. Alpert stated that his recollection is the town already has a pilot program from the residences behind the nursing home on Gould Street. Mr. Jacobs knows the applicant met with one-a member of the Selectmen Select Board, and the Select Board wants to make sure the applicant pays their full share of assessed taxes.

Ms. Newman asked why they didn't carry forward some of the parking demand information from the medical overlay district. Mr. Sullivan stated that they spoke to their traffic consultant and they do not anticipate any short-term visits warranting the 7 per thousand requirement.

Ms. McKnight noted that they are proposed the use to be allowed by-right. She is concerned that the Board have the discretion to deny it if the impact was shown to be too high. Mr. Sullivan said it will be a special permit no matter what because they will have to amend the existing special permit on the property. Ms. Newman clarified that although that is true, it is a site plan special permit, which has a different set of rules than a special permit with regard to use. Ms. McKnight reiterated that she feels a discretionary special permit is important to her.

Mr. Smart noted hospital use is allowed in the medical overlay district. Mr. Jacobs assumes the applicant would like the Planning Board to proceed with sponsoring this proposed zoning change. Mr. Smart would prefer that. He thinks it would be best and most appropriate for this spring with a public hearing in January and February. If going forward, what more information would the Board need? He assumes parking and traffic studies and a fiscal impact study. Mr. Jacobs noted they would need an independent analysis. Ms. McKnight suggested it would be good to have the existing special permit background with them. Ms. Haggerty noted it will be a 24 to 28 month construction schedule. They will do a special permit at the same time as a Determination of Need. Mr. Sullivan stated he would come in right after Town Meeting. Ms. Haggerty will bring more information on the Determination of Need and zoning impacts. Ms. Newman stated she would be interested in the Lexington zoning and how that was done.

ANR Plan – 766 Chestnut Street, LLC, Petitioner (Property located at 766 Chestnut Street, Needham, MA).

Mr. Jacobs noted a letter, dated 10/16/19, from Attorney Robert Smart requesting an extension of the action deadline for ANR approval for 766 Chestnut Street.

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

VOTED: to extend the action deadline for ANR approval for 766 Chestnut Street to 11/22/19.

Discussion of Fall Special Town Meeting zoning.

Mr. Alpert stated he is comfortable with the presentation. He thinks a slide as a handout that shows items that were raised at the May Town Meeting and actions taken would be very helpful. He felt what the Board gave to the Finance Committee was very good. There should be a handout table and he can do a short summary. Ms. McKnight stated having height and setbacks all on one slide was confusing. The 20 foot setback is her big issue. She does not think it is clear. Mr. Jacobs wanted to talk about John Schneider's comments on the accessory dwelling units article. He is bewildered by his claim of no criteria. Ms. McKnight noted some of the criteria needs a judgment call by the Building Inspector. It was agreed after discussion not to include limited partnerships and that the transfer

issue Mr. Schneider was concerned about was not an issue. The Building Inspector and ZBA have authority to ask at least every 3 years for proof of ownership.

Correspondence

Mr. Jacobs noted a letter from Sira Natural stating they would like to come in. Ms. Newman commented they are willing to come in if the Planning Board wants them to. They feel Cambridge is over reacting. Mr. Jacobs stated he would like to see the source documents and Cannabis Control Commission~~s~~ (CCC) approval. Ms. McKnight agreed.

Mr. Jacobs noted a legal notice from Newton regarding a 10/10/19 meeting; a Town of Dedham Planning Board notice; an email from Don Lankiewicz, Chair of the Historical Commission, noting the Historic Commission has been asked not to endorse the plan for 1479 & 1473 Great Plain Avenue. The Commission will hold a hearing on a demolition delay for 6 months. Mr. Jacobs also noted minutes. Ms. Newman stated the Jack Cogswell building is looking for an occupancy permit. The consolidation plan is not ready yet. She will issue a temporary permit for 30 days until the consolidation plan is done.

Mr. Jacobs commented he has been by the RTS a couple of times lately. The applicant was going to dig down 6 feet and rip out the weeds. Instead the applicant decided to treat the area. The applicant has dug up the whole thing. Mr. Alpert stated the berm has been totally taken out. The entire berm will have to be redone. Mr. Jacobs suggested the Planning Director go out and look.

Report from Planning Director and Board members.

Ms. Newman gave an update on the traffic study. Ms. McKnight noted she went to the Select Board's hearing on Green Communities. There was some very good information. She asked if this Planning Board would vote to urge the Select Board to seek designation as a green community. It will be put on the 11/6/19 agenda. Mr. Jacobs would like to discuss this.

Minutes

Ms. McKnight noted on the minutes of 5/21/19, page 4, 2nd to last line at the bottom, a question mark is needed; on page 6, 2nd line, add "and"; and put a comma after Hillside School.

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

VOTED: to accept the minutes of 5/21/19 with changes discussed.

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

VOTED: to approve the minutes of 7/30/19.

The Board members passed in changes for the minutes of 8/6/19, 9/3/19 and 9/17/19.

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

VOTED: to adjourn the meeting at 9:45 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

October 28, 2019

The regular meeting of the Planning Board held in the Highland Room, Needham Town Hall, was called to order by Martin Jacobs, Chairman, on Monday, October 28, 2019, at 7:04 p.m. with Mr. Alpert and Mmes. Grimes and McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Discuss Town Meeting Warrant Articles.

Mr. Jacobs noted this was a meeting prior to the Special Town Meeting. Ms. Newman stated all members have copies of the presentation that Ms. Grimes will be doing. She has also prepared a number of backup slides including all the diagrams from the traffic report and all the work Natasha Espada did with the buildings imposed on it and with streetscapes.

Ms. Grimes stated she has incorporated the comments from Ms. McKnight that were sent earlier. She thinks what she has written is all she needs to say. She stated she will call on the experts to respond to questions. The Board will have to ask the Moderator if he would allow the experts to speak and the Hall-Town Meeting will have to consent to that. In her updated presentation she addresses the Finance Committee's concern with what they-it believes was a lack of information and the lack of getting a traffic study and fiscal analysis well in advance. She feels she should address that head on. Ms. Newman stated the study was done in 2015. The Board did not know what the mix would be until after the presentation was done. A build out analysis was done when the rezoning was looked at.

Mr. Jacobs stated the responses are accurate. The Board does not have the money to do a new study with each project and the mix was not finalized until the last few months. He suggested Ms. Grimes might say the Finance Committee received the information late in the process but still had time to review it and comment. Ms. McKnight suggested Ms. Grimes could mention the date the reports were provided. Ms. Grimes noted the 2015 report has been available.

The Board discussed parking information and setbacks. Ms. Newman stated if there are questions about parking Ms. Grimes should talk about the restrictions the Board is putting on the garage and parking. It should be made clear the parking is being treated no differently than any other district. Ms. McKnight clarified that the Board had agreed if someone proposes additional relatives for the ADUs they Board would not object.

The Board went up to Town Meeting at 7:20 p.m. The meeting remains open.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

December 3, 2019

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, December 3, 2019, at 7:00 p.m. with Messrs. Owens and Alpert and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee. Ms. Grimes arrived at 7:05 p.m.

Minutes

Ms. McKnight noted on page 3 of the 10/2/19 minutes, paragraph 2 of the Great Plain Avenue discussion, 4th line, there should be an “s” after “Historic Commission.”

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

VOTED: to accept the minutes of the 10/2/19 Planning Board meeting with the one correction.

Ms. Grimes arrived at 7:05 p.m.

Decision: Sunrise Terrace (formerly 1001 and 1015 Central Avenue) Definitive Subdivision Amendment: Hillcrest Development, Inc., 78 Pheasant Landing Road, Needham, MA, Petitioner (original owner and Petitioner RRNIR LLC, 20 Beaufort Avenue, Needham, MA), Petitioner, (Property located at 1001 and 1015 Central Avenue, Needham, MA).

Mr. Jacobs noted this was a further amendment to the subdivision plan to get rid of the sidewalks in total. The hearing was closed at the last meeting. George Giunta Jr., representative for the applicant, has reviewed the decision and has no comments or objections. Ms. McKnight noted on the 2nd page, #2, “low lying” should be before “ground cover.” All agreed.

Upon a motion made by Mr. Owens, and seconded by Ms. Grimes, it was by three of the five members present (Mr. Alpert and Mr. Jacobs voted in the negative):

VOTED: to approve the decision with the recommended modification.

Upon a motion made by Ms. Grimes, and seconded by Mr. Owens, it was by three of the five members present (Mr. Alpert and Mr. Jacobs voted in the negative):

VOTED: to approve the draft decision as written.

Discussion regarding Pediatric Medical Facility Zoning Article – Children’s Hospital.

Mr. Jacobs noted there is draft language in the packet for the proposed amendment. Robert Smart, representative for the applicant, talked with the Planning Director and noted the applicant would like to go forward with a Citizen’s Petition rather than a Planning Board article. This will give him more time to prepare everything. Nothing has been finalized yet. He has a meeting with the Finance Committee on 12/18/19 and wants to get back the parking and traffic analysis.

| Mr. Alpert stated he has ~~s~~ issues with some of the wording. Both Hospital Pediatrics and Medical Pediatrics have the phrase “children and young adults.” He does not know what a “young adult” is. He wants an age put in so there is no question. He noted 105 CMR 130.700 says a young adult is to age 21. The Board may want to say that. He commented “Residing in communities...” is a lot of words. The Board agreed to end the sentence at young adults. He noted the language under Medical Facility, Pediatric is not tight enough. He feels there could be in-patient facilities with this language. He suggests taking out the word “primarily.” All agreed. Tim Sullivan, of Children’s Hospital, stated some diseases are best treated through adulthood. Those need to be accounted for. He reiterated there is no in-patient care at all.

Mr. Alpert noted in (viii) it should be made clear it is out-patient. In the 2nd (viii) it should be “such ancillary uses” and in 3.2.4.2, he would like to see this by Special Permit rather than by right. Ms. McKnight noted she has the same comments as Mr. Alpert. On the 7th line down, she would like “provided on outpatient basis” added after “health care services.” After “retail establishments” she would prefer “like gift shop or coffee shop” added. She agrees with Mr. Alpert that this should be by Special Permit and not by right. She noted the definition of pediatric hospital says not less than 3/4 of their patients are children or young adults. Tim Sullivan noted some patients are treated to and through adulthood.

Mr. Owens noted the required parking noted on page 4 of the Parking Demand Handout should say “Per the Proposed Zoning” in the title. Mr. Sullivan stated what the applicant is proposing is slightly higher than the current parking requirement. Mr. Jacobs asked how many spaces are needed for the first building and was informed 819. He asked if that is the amount that is available, outside of the garage that will not be built by then. Mr. Sullivan stated there are 452,000 square feet left on the site. There are 857 spaces to the east of the site, 2,785 left for the west side, 140 go to the hotel and about 950 to Trip Advisor. There are 130 more than the zoning requires. The applicant is not proposing any more spaces. There should be a 925 space garage built with the first building.

Mr. Jacobs asked where the “3/4 of patients are pediatric” number came from. Mr. Sullivan stated it was set high so Children’s Hospital could satisfy that number. Mr. Jacobs noted the “ambulatory and inpatient services” and asked why this is in there as there is no inpatient. Mr. Sullivan stated this needs to be defined for purposes of a pediatric medical facility. This needs to be affiliated with the hospital. Mr. Jacobs stated he agrees this should be by Special Permit.

Mr. Smart described the timeline. He hopes to meet with the Select Board, if possible, by the end of the year. He has a meeting with the Finance Committee set and is hoping to have a traffic report this month. He feels it then might make sense to come back to the Planning Board in January to show what they have.

Discussion of possible zoning articles for Spring Annual Town Meeting.

Mr. Jacobs stated there was a working group meeting for Highway Commercial 1. They tried to find out what the Finance Committee is looking for. He heard several issues – (1) some did not like the Zoning Article on the Fall Town Meeting, (2) the Finance Committee wants studies earlier than they received it, (3) possible substantive changes such as reducing the FAR or allowing some residential with the possibility of limiting the number of as of right uses and (4) a presentation change. The Board should explain the current allowed uses and there were complaints about the visuals not being satisfactory. The Select Board would like it- the rezoning to come back in the Spring.

Mr. Grimes stated the biggest take away is the Finance Committee has no understanding of what the Planning Board does during the planning process. She asked the Finance Committee what more they want and did not get an answer. Mr. Owens asked if the Planning Board wants to invite the Finance Committee to a joint meeting. He feels it would be helpful. He felt it was helpful with the Select Board. Mr. Alpert likes the idea. Ms. McKnight likes the idea but it is not the Finance Committee’s concern with how buildings fit in and zoning. She wants to make their-its role clear if there is a joint meeting. Mr. Alpert noted the Finance Committees authority is to advise Town Meeting and not just about finances. Mr. Owens agreed.

Mr. Jacobs stated if there was a joint meeting the Board would get an idea from the Finance Committee if it should be put forward. Ms. Grimes stated if the Planning Board wants to take it on again, then they should talk with the Finance Committee. Mr. Jacobs stated he has no problem advancing the article again but not in the same form. He feels it needs substantive changes. Ms. McKnight agrees but with different visuals that would make it clear. She feels the problem was the visuals.

Mr. Alpert stated he has a major concern with the movement in town that there should be no zoning articles in the Fall. He feels if this is not done now then it would be May of 2021. He does not want this parcel sitting there. He feels a vacant lot would be terrible as the gateway to Needham. Ms. Grimes noted the lot can be developed now. There could be warehouses under current zoning. Mr. Owens feels the Board should go forward and make

some adjustments in scale to make it different enough. Ms. Grimes would not bring it back. She does not feel bringing it down in scale would make a difference. Mr. Jacobs noted 4 of the 5 members are willing to go ahead with a scaled down version. He would want to know that the Select Board and Finance Committee are in support. Ms. Newman would like to get a hearing done in February. Mr. Owens suggested inviting the Finance Committee to the 1/7/20 meeting.

Mr. Jacobs noted 3 car garages and said Jon Schneider asked for this-a response on this issue a year ago. Ms. McKnight stated she wrote up some circumstances where a 3 car garage would be allowed as of right in October. Her concerns were 3 car garages facing the public way. On the side of the house or on corner lots are ok. The general question is if this should go forward to the Spring Town Meeting. Ms. McKnight and Ms. Newman would like to go forward and will work together on the language. Mr. Owens stated he has no problem with 3 car garages. He would not go forward with Customary Home Occupation, Review of Section 1.4.8 of the Zoning By-Law or Short Term Rentals without preparing the ground for a year. He does not feel the Board has prepared enough.

Mr. Alpert is ambivalent about having a 3 car garages article. He does not want to have a lot of Articles in front of Town Meeting. This was brought by the Zoning Board of Appeal but then they seemed to have dropped it. There will already be Children's Hospital and maybe Highway Commercial 1. Mr. Jacobs asked about the Review of Section 1.4.8 of the By-Law. Ms. Newman suggested clarification of the By-Law. A discussion ensued.

Ms. Newman stated Town Counsel should put a formal opinion in writing for 260 Washington Street. She noted Town Counsel would not let the Planning Board use Special Counsel for a 2nd opinion and has gone on record with the landowner on Wellesley Avenue that the Planning Board is wrong. She stated Town Counsel Tobin's interpretation was not what was intended by the By-Law. Ms. Newman will ask Building Inspector David Roche how urgent 3 car garages is. After discussion it was decided if the Zoning Board of Appeals feels it is important it would go forward.

Correspondence

Mr. Jacobs noted an email from George Giunta Jr., dated 11/25/19, regarding Hunting Road. Ms. Newman stated this is on the next agenda. Mr. Jacobs noted google earth pictures in the packet. This is an ANR off Chestnut Street. Ms. Newman stated there will be a solution. The owner will come in with a subdivision road and will do a residential compound. The parcel will get developed at less density and the open space remains at the end. The property owner still wants approval for an ANR. Ms. Newman wanted to inform the Board what is happening. The owner needs another ANR and would not have frontage on Chestnut Street.

Ms. Grimes commented the Fire Department can get in off Chestnut Street if needed. Mr. Alpert feels an ANR can be done but he does not necessarily want to go against the Fire Chief. Ms. Newman told the owner he needed subdivision approval but he still wants to come in and talk to the Board. Ms. McKnight feels changes should be made through subdivision approval and not ANR. The Board could waive most requirements but she feels it should proceed this way.

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

VOTED: to adjourn the meeting at 8:50 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Jeanne S. McKnight, Vice-Chairman and Clerk



WELLESLEY PLANNING BOARD

**NOTICE OF PUBLIC HEARING ON A SCENIC ROAD APPLICATIONS FOR
194 & 196 POND ROAD**

**Public Hearing to be held by the Planning Board and the Natural Resources
Commission at a meeting to begin at
~~6:30 p.m. on Wednesday, March 4, 2020, in the~~
~~Kingsbury Room, Wellesley Police Station~~
~~485 Washington Street~~**

**RESCHEDULED TO:
MONDAY, MARCH 16, 2020 AT 6:30 P.M.
GREAT HALL-TOWN HALL**

In accordance with Chapter 40, Section 15C, of the Massachusetts General Laws, and the Town of Wellesley Planning Board Scenic Road Regulations, the Planning Board, the Natural Resources Commission, and the Wellesley Tree Warden will hold a public hearing on the applications of Pond Road, LLC for proposed work at 194 Pond Road and 196 Pond Road, a Scenic Road. The proposed work is located between the existing driveways to 190 Pond Road and 200 Pond Road.

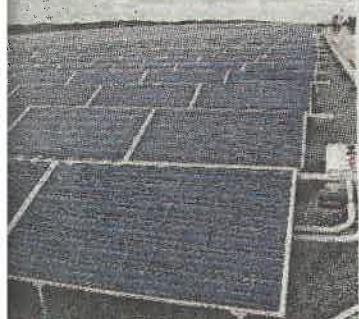
Persons interested in this matter are encouraged to call the Planning Department for more information: 781-431-1019 x 2232 or 2234. The application, plans, and other materials may be reviewed at the Planning Department, Town Hall, 525 Washington Street, Wellesley MA 02482.

Don McCauley
Planning Director

(2/27/2020, 3/5/2020)

RECORDED
JOHN SIEBERSON JR.
WELLESLEY MA 02482

2020 FEB -5 P 1:17



NEWS | A2

NEEDHAM GETS GREEN COMMUNITY DESIGNATION



NEWS | A2

ZONING

From Page A1

thinks it makes sense to bring it back in the fall having had a negative response last fall," he said.

Last fall, a similar zoning proposal for the area failed to be adopted. Before that vote, members of the Finance Committee took issue with

parts of the zoning proposal largely because it included a dated traffic study.

Before Owens spoke, Planning Board chair Martin Jacobs said that a new traffic study would take at least a month to produce because the company hired to produce the study, Beta construction, needed to perform new traffic volume counts.

"And now to hear you tell me that the traffic study

wouldn't be ready for another month leads me to believe that we would once again run up against the barrier with the Finance Committee," Owens said. "Therefore I am inclined to think that this needs to wait."

Along with Owens, Jacobs would eventually join Bruce Eisenhut, Jeanne McKnight, and Paul Alpert in the unanimous vote to take more time to form the elements of the



A controversial proposal would overhaul allowed zoning for the area of town where the Muзи Ford dealership, shown above, and WCVB-TV are located. [WICKED LOCAL FILE PHOTO / TREVOR BALLANTYNE]

Board puts off presenting controversial article to Town Meeting

By Trevor Ballantyne

tballantyne@wickedlocal.com

The Needham Planning Board will not present a controversial zoning proposal at the town's annual Town Meeting in May.

At their meeting Tuesday night, the five-member board voted unanimously to put off presenting an article overhauling the allowed zoning uses for the area where Muзи Ford and WCVB-TV are located, choosing instead to take more time to consider the contents of the plan.

"It seems to me that we have a couple of options in front of us," Planning Board

member Ted Owens said "Looking at the time table, if we wanted to put something on the warrant for this May's annual [Town Meeting], we would need to finalize the language tonight."

Owens pointed to a community hearing on the topic last week that included calls for more green space and environmental and sustainable components in the proposal. He led the discussion along with Select Board member Marianne Cooley and said the responses collected required the board to take more time to reconsider plans for any future proposal for the area.

"The other option is to defer it until next May [2021] because I don't think any of us

See ZONING, A3

zoning proposal

"There was an implication in the newspaper article that [we were trying to resell what was before the Town Meeting previously] and it was very, very clear from your presentation that we were there to listen," McKnight said, referring to a Needham Times report on the community meeting. "I agree that we need to start planning now with a goal to bring this very

important site - the gateway to Needham as so many called it - before [our 2021 Annual Town Meeting]."

For his part, Alpert said, "there were some excellent comments that were made [at the community meeting] - even having lower height for along Highland Avenue and Gould Street from what we are proposing." "We have a lot of work to do," he added.

Staples reimagines Needham location

Offers coworking space and podcast studios

Submitted by Staples

Staples US Retail today announced Staples Connect, a reinvented store with coworking, podcasting and community event spaces where professionals, teachers and students alike can connect and grow together. This new store concept is built around the ever-evolving needs of the retail customer with a focus on community, hands-on learning and solutions. Staples Connect has come to life in six stores – Cambridge (186 Alewife Brook Pkwy), Somerville, Needham, Boston, Brighton and Danvers (250 Independence Way) – while some elements of Staples Connect can be found in stores throughout Massachusetts. More than just a place to make a transaction, Staples Connect is a destination dedicated to continued curiosity, growth and development.

"We recognize that the way people shop is changing, and with the launch of Staples Connect we are adapting to fit the needs of our customers," said Mike Motz, Chief Executive Officer, Staples US Retail. "Our customers are teachers, students of all ages, small business owners and side hustlers. Research shows that much of what they are seeking is real human interaction with members of their community and industry, which is key to productivity and growth. At Staples Connect, we do more than just supply your success through product offerings, we wholeheartedly support it."

The new Staples Connect store illustrates a commitment to lifelong achievement



Staples Connect held its grand opening Feb. 5. [COURTESY PHOTO]

at every stage. New elements of each fully transformed store includes:

- **SpotlightSpace:** A free in-store event space designed as a platform for the personal and professional development of the community. In the nearly 500 square foot space, customers can connect and learn by hosting or attending events such as speaker sessions, workshops, seminars, meetings and more. For a full list of events, visit StaplesConnect.com/events.
- **Podcast Studio:** Through a collaboration with iHeartRadio, the Staples Connect Podcast Studio provides dedicated space for story tellers and small businesses to record and let their voices be heard. The space features a soundproof room with professional equipment for up to four people, with a dedicated specialist available in-store to help you along the way.
- **Staples Studio:** A collaborative coworking space that provides entrepreneurs, small businesses and students access to private or shared offices, community kitchens, meeting rooms and brand-new technology. Staples Studio is now available on a membership basis, and members have access to



Town of Needham Selectman Maurice Handel "turns on the WiFi" with Newton Needham Regional Chamber President Greg Reibman and Membership Director Lise Q. Elcock at the grand opening of the new Staples Connect in Needham. [PAUL JOHNSON/STAPLES]



Staples associates assist customers during check out during the grand opening of the new Staples Connect. [PAUL JOHNSON/STAPLES]

community-lead ribbon cutting. Each store featured a variety of activities and giveaways throughout the day including 20% off on in-store purchases and \$50 in Staples gift cards for the first 100 people in each store.

Also to support future leaders within the community of the stores, Staples Connect made donations to local educators, including public schools

through a partnership with DonorsChoose.org, City Sprouts in Cambridge, the Needham Education Foundation and the Somerville Education Foundation.

- **George Foreman III,** Founder of Everybody Fights at Staples Connect Somerville
- **Andy Levitt,** Founder of Purple Carrot at Staples Connect Needham
- **Brogan Graham,** Cofounder of November Project at Staples Connect Cambridge (186 Alewife Brook Pkwy)
- **Joanne Chang,** Founder of Flour at Staples

Residents, officials to mull future use of abandoned Nike missile site

Trevor Ballantyne
tballantyne@wickedlocal.com

The Select Board was set to host a public hearing on future plans for 21 acres of land within the town's Ridge Hill Reservation Tuesday evening, after the Times' print deadline.

Along with three acres of land and estate buildings within the reservation, the board controls 18 acres where a former U.S. Army Nike missile base operated during the 1950s. The rest of the reservation's approximately 225 acres, including walking trails, wetlands, and floodplain areas, falls under the jurisdiction of the town's Conservation Commission.

Built as part of a wider air defense infrastructure around Boston during the Cold War, the Nike missile launch site in Needham included 12 launch rails and

an arsenal of 30 missiles controlled by a command station built on top of North Hill.

According to the Needham History Center and Museum, the entire installation closed in 1963 after a television transmission tower built nearby blocked radar readings from the northwest and rendered the base radar systems ineffective.

In 2004, the town relocated landfill from the high school to the missile site, at times used by local police as a shooting range, and worked to remove fuel tanks and lead deposits found in the soil. A year later, a group called Toxics Action Center worked with some concerned residents to convince town officials to undertake more comprehensive testing and remediation of the site ahead of a proposed plan to build sports fields. Ultimately,

discussions among residents to read about the Select Board's Tuesday evening discussion, which took place after the Times' print deadline, visit www.needham.wickedlocal.com.

and local officials beginning in 2008 resulted in the construction of a community garden and a dog park.

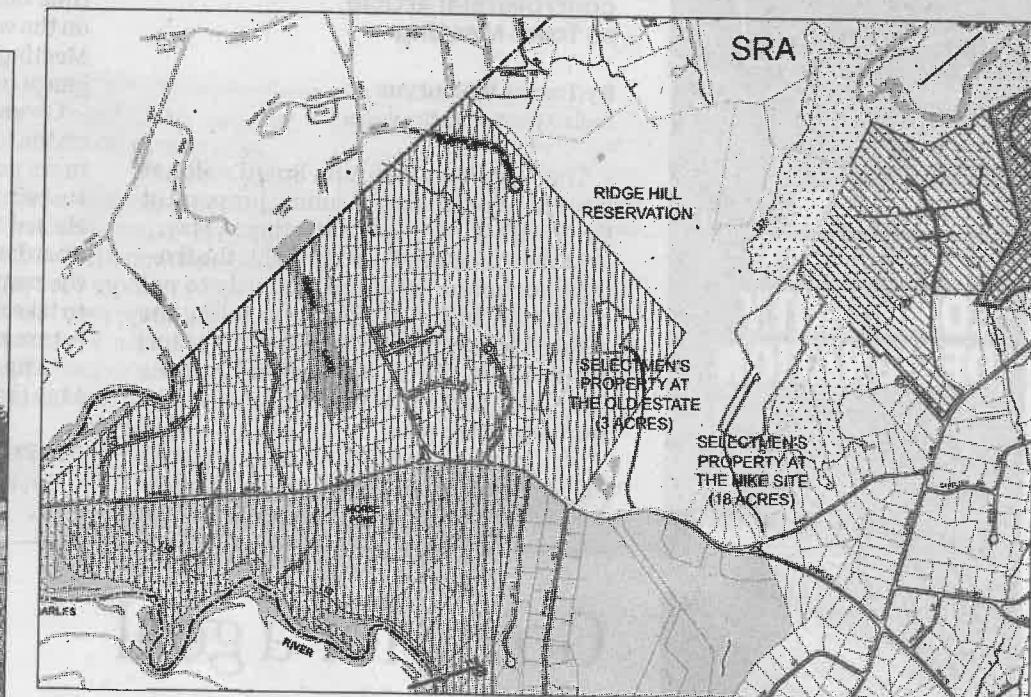
At its meeting Tuesday night, the Select Board planned to discuss results of a property assessment study completed in 2018 under the direction of the Conservation Commission. The study explores current land uses and existing conditions for the reservation land. Members of the public also had an opportunity to discuss potential future uses and a group representing Needham Youth Hockey was expected to propose that part of the site be used to build an ice hockey arena.



An aerial view of the Nike Missile site taken in the years after the base closed in 1963. [PHOTO/NEEDHAM HISTORY CENTER & MUSEUM]



A picture of the Nike missile silo taken sometime in the late 1950's or early 1960's. Below the tarmac surface, the U.S. Army stored an arsenal of 30 Nike-Ajax missiles with functional radar-guidance systems. [PHOTO/NEEDHAM HISTORY CENTER AND MUSEUM]



The Needham Select Board held a public hearing on the current management and potential future uses for a 21 acre area within the town's Ridge Hill Reservation. The rest of the reservation land is controlled by the Needham Conservation Commission. [SCREENSHOT/2018 RIDGE HILL PROPERTY ASSESSMENT]

Notes From January 27, 2020 Community Meeting (Needham Heights Neighborhood Association)

- Lois Sockol
 - prefers “original ideas” that foster residential and less commercial. Commercial should be there to supplement what residential needs and compliment residential.
 - More tree filled areas
 - Do residents want more commerce for the taxes when they don’t get to feel that benefit financially?
- Heidi Frail
 - Need to plan for environmental success as well as economic success
 - Sustainable development, open space, solar; transportation improvements like walking paths, bike paths, bus drop off lanes, electric car charging; planting trees and plantings instead of just grass
- Joni Schockett, Evelyn Road
 - Concern of traffic and noise levels
 - Sustainability, environment, green buildings, trees
 - Asks to create group from concerned citizens so that whenever the Planning Board meets to discuss it, they can be there to hear conversation and participate.
 - Safety and health for families
 - It is possible to create commercial properties that benefit the town financially but also aesthetically.
- Erik Bailey, Town Meeting Member, Precinct A, Hillside Ave
 - Voted in favor of this at Fall Town Meeting.
 - Agrees with others on open space, sustainability.
 - References Hillside Ave where he lives – parks and Industrial can coexist
 - How can zoning get us development in a smart way that maintains the feel.
- Ben Daniels, Sachem Road
 - If Muzi isn’t eager to sell, what’s the hurry? Has lobbying occurred?
 - He does not share concern of manufacturing or strip mall going in there. Too small for Amazon.
 - Town currently has strong negotiating position. Land Value would go way up.
 - Zoning can be changed when there’s a developer interested and when there’s an actual proposal.
 - 70 feet in height would destroy this property value. And the feel.
 - Referendum.
- Felicia Mathias, Webster Street
 - Town needs a 55+ community, townhouses. Traffic would be less than for other uses.
- Jill Kahn
 - Concern of disingenuousness. Warrant closes this Monday.
 - (Town Manager clarifies. Citizens Petitions due first Monday in February. Warrant closes on February 10, but just for placeholders.)

- Concern that it is being rushed. Need more meetings and input from residents like this.
- Peter Atallah, Town Meeting Member, Precinct I
 - Sustainable development is very important to his constituents. Little green space in development across highway.
 - Questions in expenditures, cost side, of Fiscal Impact Analysis.
- Donna Mullin, Town Meeting Member, Precinct J
 - Needham has just become a “Million Dollar Town”, just a little behind Wellesley.
 - Small homes with smallest tax rates being torn down. The tax rate from new large homes will accrue in the town without the project going forward.
- Henry Ragin, Bennington Street
 - Question on override shown on the slide. (Marianne Cooley explains).
 - Asks if zoning could be changed to not allow some of what we don’t want that is currently allowed. (Ted explains owner could file something to be grandfathered in).
 - Asks about TripAdvisor tax agreement (Marianne said that is complete).
 - Why make zoning change now, why not wait until we receive a specific proposal. Seems that keeping zoning as it stands currently gives the Town more control. Why would we give that up?
- Todd Glaskin
 - Appreciates town acting pro-actively rather than waiting.
 - Realtor. Says that reputation used to be that things take much longer in Needham. But that has changed, we’re now seeing those tenants coming to Needham.
 - Special permit process gives developers a framework to work within
 - This area isn’t connected to current bus route. Would be great to expand transportation.
 - As realtor, he gets a lot of calls for people looking for small houses in Needham.
- Carol Urwitz, Town Meeting Member, Precinct J
 - Sustainability, environment. Also aesthetics.
 - Proactivity is always a good thing, versus knee-jerk reaction.
 - Is there opportunity to have sustainability requirements in zoning? So when people want to come here, they come knowing the kind of town we are, the kind of businesses we want, what our priorities are.
- Doug Fox, Town Meeting Member, Precinct F
 - Thankful for being open to a “pause”.
 - Traffic should be mitigated right away since the “grade” of the intersection is already an ‘F’. Town should deal with it.
 - Asked constituents whether they would want tax relief with traffic or not have the development.
 - Is scared of giving Planning Board leeway on Special permit, need to hold ground on zoning. (also references Hartney Greymont earlier proposal)
- Lois Sockol
 - Says that she is here representing her constituents.

- Does anyone know when/if Muzi even wants to go. What is the rush?
 - Wants to support some of other things people have said: Green, sustainable; community of 55+ or others who want smaller homes to live in Needham.
- Philip Zymaris, right across street from Muzi Ford
 - Asks what zoning is really being considered? What are other choices that might be considered?
 - Broadening of Highland Ave, is that happening independently? Timeline?
 - (Ted explains how zoning works. And original proposal of Highway Commercial 1. And process of zoning change, i.e. Town Meeting vote of 2/3 required)
 - (Marianne explains project of Highland Ave expanding).
- Aimee Stone
 - This parcel is next to a neighborhood. Keep neighborhood in mind when making decisions.
- Artie Crocker, Precinct I, Conservation Commission member
 - Shouldn't be doing something out of fear.
 - Although Town Meeting needs to ultimately pass it by 2/3 vote, it is the Planning Board that presents the article and decides what to bring to Town Meeting. The path to how we got here is why we have this many people here now. Planning Board should listen to community, get input.
 - Trees coming down all for tax revenue – that is how it comes across.
 - Sees this area as an entrance to Needham – what do we want to see when entering Needham?
 - Visuals need to be real and fairly represented, if not, trust is lost.
 - Doesn't want building right at the corner of Gould and Highland.
 - Minimal effect on tax revenue by making a better development
- Frank Brayer, Gary Road
 - Hasn't heard the word "residential". Can't imagine 900 units there, that would be a nightmare.
 - Changing zoning to make more money is a good idea, but should be able to do it while considering what it looks like, can do both.
- Eric Tsui, Yale Road
 - Thanks Planning Board for "planning ahead".
 - Asks about plans of property owners, are they selling. (Ted said there are two separate owners. Doesn't know owners' plans.)
 - He thinks land cost in Needham too high for manufacturing.
 - Hopes the Town considers residential.
 - Traffic fixes like expanding the road is usually temporary. Only public transportation can really, permanently relieve vehicle traffic.
 - Asks what Highway Commercial 1 zoning would look like. (Ted explains that is what they are trying to figure out.)
- Leigh Doukas, Tower Ave

- This is the gateway to Needham. Needham is residential, commercial and retail. Why not make this site mixed use?
 - Businesses will only rent if traffic works.
 - Bigger is not necessarily better.
 - Make it look like something special, “Gateway to Needham”.
 - Asks if a zoning article is defeated, is there a certain amount of time before it can be brought back again.
 - (Ted explains if it is the same proposal, there is a limit on bringing it back. They would not bring the same proposal back).
- Holly Charbonnier, Sachem Road
 - In design-build industry. Thinks it is wrong to change zoning before developer exists, lose everything about negotiations.
 - Against going high, would ruin area. Wants to live in small town and in a community.
- Terry Ryan, Evelyn Road
 - The picture up on screen is at least 5 years old. The big green area shown on aerial does not show more recent Wingate development. Needs to be shown on any future images, as it looks like there is more green space in the area than there is.
 - Green and open space important to him.
- Thomas Cremlisk, ex Town Meeting Member
 - How to keep millennials and younger residents in town. Rent-to-buy while they are paying off student loan or other less expensive type housing.
 - Look towards future.
- Joni Schockett
 - Thanks for listening, she's grateful.
 - Opportunity to create something that is forward thinking, helps to repair earth, also can be good development.
 - Be a leader for the future.
- Steve Sussman, 30 Davenport Road
 - In his neighborhood, a 22,000 sf addition went onto a building. Many “variances” were issued for the building (probably means waivers).
 - Things to take into consideration:
 - Light pollution – lights can be on after close of business, with cleaning crews etc.
 - Noise - What is on roof – what is powering the air conditioning units. In the summer, never quiet in his backyard.
 - He thinks his property value likely suffered (but not a huge hit because Needham), but quality of life changed in his neighborhood from this one building.
- Barry Pollack, off of Sachem Road
 - Most other people are dead-set against this.
 - This could be the most important project in at least a decade.

- The comment of “compared to what” – when many of those things are not on table. Tell us compared to what. How do we want to define our town?
 - Thinks most people will think 70 feet is way too high.
 - He thinks there may already be some idea of what will be put in.
 - Get more creative, define our Town.
 - Include certain uses, put in something that serves the town. Example of youth sports.
- Ben Daniels, Sachem Road
 - Have there been any conversations with Muzi and if so what about.
 - (Ted said no discussion with Planning Board.)
 - He's seen in other places, towns have actually gone out and recruited developers who would be willing to work with what the Town wants to see. Has there been any thought to this.

TOBIN & GRUNEBEAUM
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DAVID S. TOBIN, P.C.
DAVID F. GRUNEBEAUM

January 3, 2020

Ms. Lee Newman
Planning Director
Town of Needham
550 Dedham Ave.
Needham, MA 02492

Re: 12 & 18 Brookside Road

Dear Lee,

You have asked me for a letter opinion regarding the proposed ANR endorsement applied for the above property and the application to it of Section 1.4.8 of our zoning bylaws.

It is my understanding that the lot meets the zoning requirements based on size, shape and area. It is non-conforming because a structure on the lot is within the front setback area. The owner wants to sever a portion of the land and make the severed portion a part of an adjoining lot. I have not seen the proposed ANR plan but it is my understanding that the frontage of the lot with the non-conforming structure will not be affected by the ARN plan. Further it is my understanding that the area of the lot will still meet or exceed the minimum area requirements of the zoning by-laws. On the basis of those assumptions I am of the opinion that the property will retain its non-conforming status. I base this on the Massachusetts Appeals Court decision of *Glidden, Tr. et al v. ZBA of Nantucket* 77 Mass. App. Ct. 403 (2010). In that decision the Appeals Court ruled in part:

"Under the terms of G.L. c. 40A, § 6, a structure or use is no longer shielded from the requirements of a zoning by-law if a change, extension, or alteration is deemed to be substantially more detrimental to the neighborhood than the pre-existing, nonconforming use or structure. See Willard v. Board of Appeals of Orleans, 25 Mass.App.Ct. 15, 21, 514 N.E.2d 369 (1987). No extension or alteration occurred in this case. The lot line reconfiguration that resulted from the 1995 variance caused no change in the over-all size of the lot. No existing nonconformities were extended, and no new nonconformities were created. Because the conveyance caused no change in any of those aspects of the lot, there could be no intensification of the nonconformities present."

*EACH ATTORNEY IN THIS OFFICE IS AN INDEPENDENT PRACTITIONER WHO IS NOT RESPONSIBLE FOR THE PRACTICE OR THE LIABILITY OF ANY OTHER ATTORNEY IN THE OFFICE

TOBIN & GRUNEBAUM

1/3/20

Page 2.

Section 1.4.8 of the Needham Zoning Bylaws makes no mention of a situation where a lot is reduced in size but still contains enough area to satisfy the area requirements of the zoning. For that reason it is not applicable in this case.

Yours truly



David S. Tobin



To: Paula Quan
Vice President of Capital Planning
and Design
Boston Children's Hospital
300 Longwood Avenue
Boston, MA 02115

Date: January 24, 2020

Project #: 14631.00

Memorandum

From: Sean M. Manning, P.E.
Samantha Lathrop, EIT

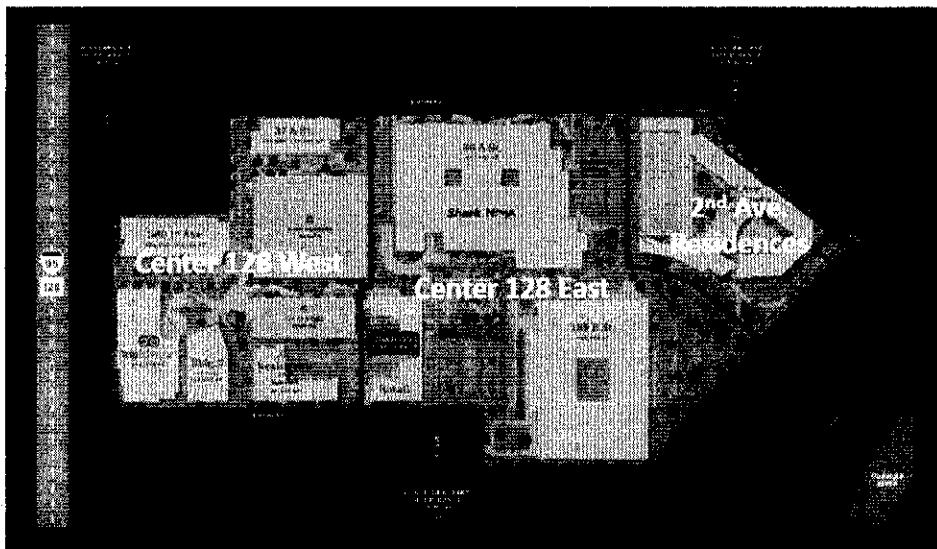
Re: Boston Children's Hospital Needham at Founders Park
Trip Generation Estimate Summary

Overview

VHB has conducted an updated estimated trip generation analysis for the Founder's Park site in Needham, MA on behalf of Boston Children's Hospital (BCH). BCH is looking to acquire three sites within the Founder's Park development and modify the approved land use from general office to a combination of pediatric medical facility and general office. This memorandum presents a comparative trip generation analysis of the Founder's Park development as previously approved and the proposed project by BCH (referred to herein as the "Project").

This memorandum refers to the Founder's Park development as described in the Supplement Draft Environmental Impact Report (SDEIR) submitted to the Massachusetts Environmental Policy Act on August 31, 2015. The Founder's Park site was separated into three components for the filing/permitting purposes: Center 128 West, Center 128 East and the 2nd Avenue Residences as depicted in **Figure 1** below. Four development sites within the total Founder's Park development are still yet to be built. Three sites (all permitted as office buildings) are located in Center 128 West and one site (permitted as hotel with retail) is located in Center 128 East as shown in **Figure 2**. BCH is looking to acquire the three sites located within Center 128 West and modify the lane use to a combination of pediatric medical facility and general office.

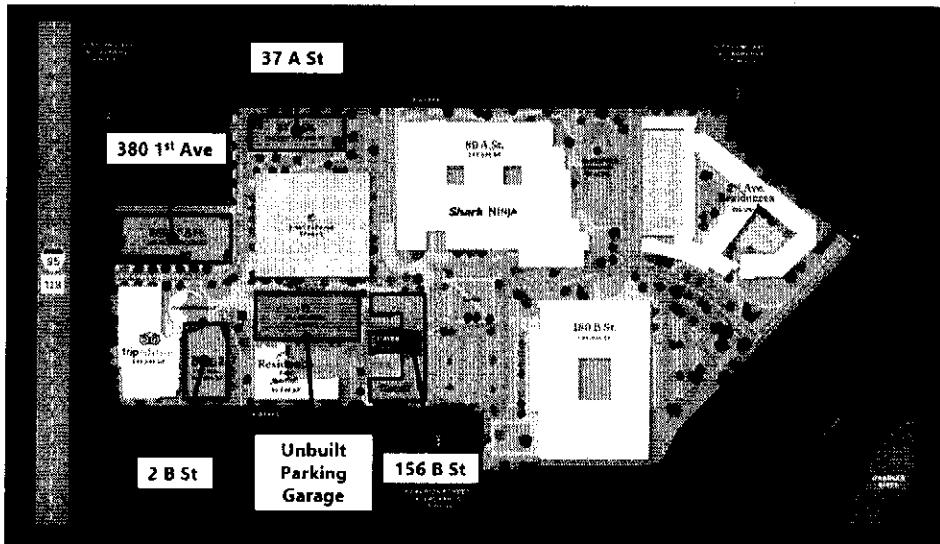
Figure 1: Founder's Park Site



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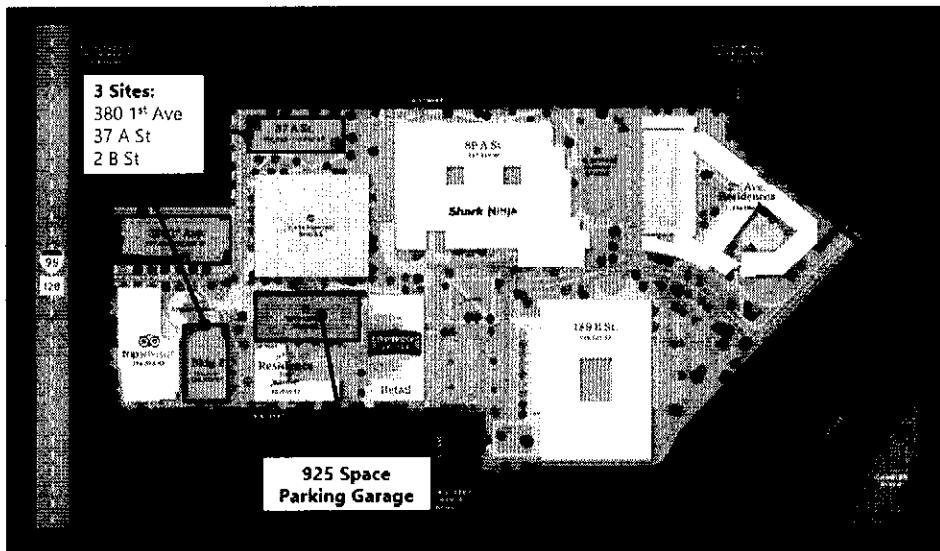
Figure 2: Undeveloped Sites within Founder's Park



The development sites BCH is looking to acquire include 380 1st Avenue, 37 A Street, and 2 B Street as shown in **Figure 3**. The unbuilt hotel with retail is located at 156 B Street. For this analysis, all other buildings within Founder's Park are assumed to be built and fully occupied.

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Figure 3: BCH Development Sites



Previously Approved Development

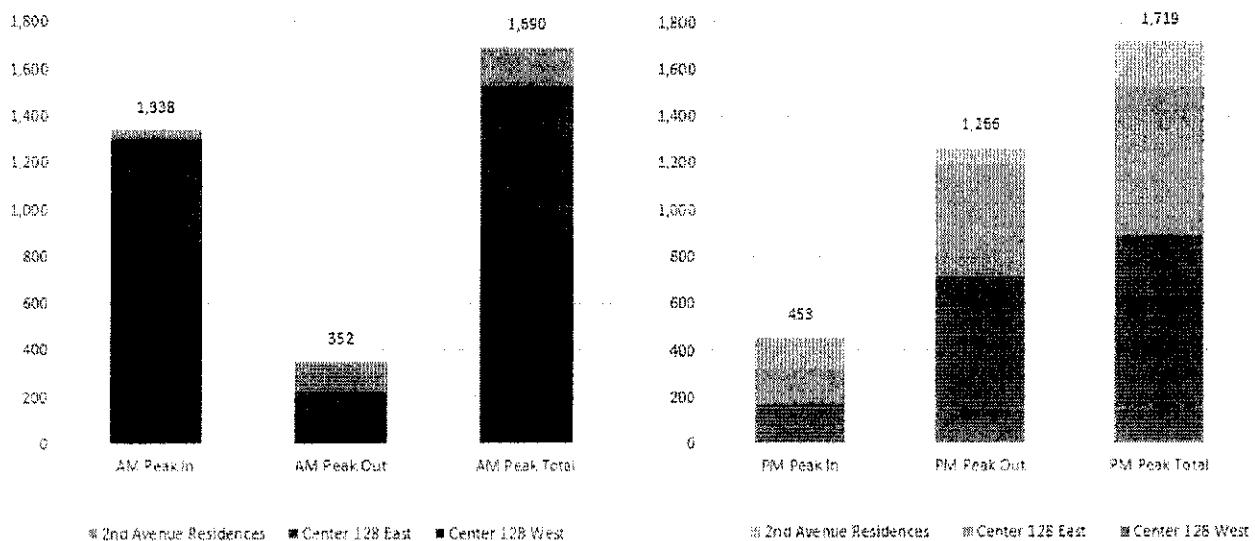
The previously approved Founder's Park trip generation for the morning and evening peak hours is presented below in **Table 1** and **Figure 4**. As described in the SDEIR, trip estimates are based on the standard Institute of Transportation Engineers (ITE) trips rates and methodology published in ITE's *Trip Generation Manual*, 9th edition. For consistency, all further trip estimates for the Project use this same methodology.

Table 1: Previously Approved Trip Generation¹

Location	AM Peak			PM Peak		
	In	Out	Total	In	Out	Total
Center 128 West	789	130	919	177	714	891
Center 128 East	517	93	610	151	485	636
2nd Ave. Residences	32	129	161	125	67	192
Total	1,338	352	1,690	453	1,266	1,719

¹Approved Trips taken from SDEIR submitted to MEPA on August 15, 2015

Figure 4: Previously Approved Trip Generation



Trip Generation Comparison

ITE trip generation estimates are generally conservative in estimating the actual number of trips generated by a development, and thus can often times tend to result in a higher trip generation estimate versus actual volumes generated by that studied development once built and occupied. In the case of Founder's Park, as the many of the buildings are constructed/occupied, the Project team was able to conduct traffic counts and compare the estimated/permitted trips vs the actual trips generated. Counts were collected on October 10, 2019 using ATRs set up at each parking garage and parking lot entrance. The actual/collected trips were then compared to the estimated/permitted trips - accounting for only sites that are built and occupied. A summary of this comparative analysis is provided in **Table 2** and **Figure 5**.

The results of these counts indicate that the trips, as approved in the SDEIR, are an overestimation of the actual number of trips generated by Founder's Park under current 2019 conditions.

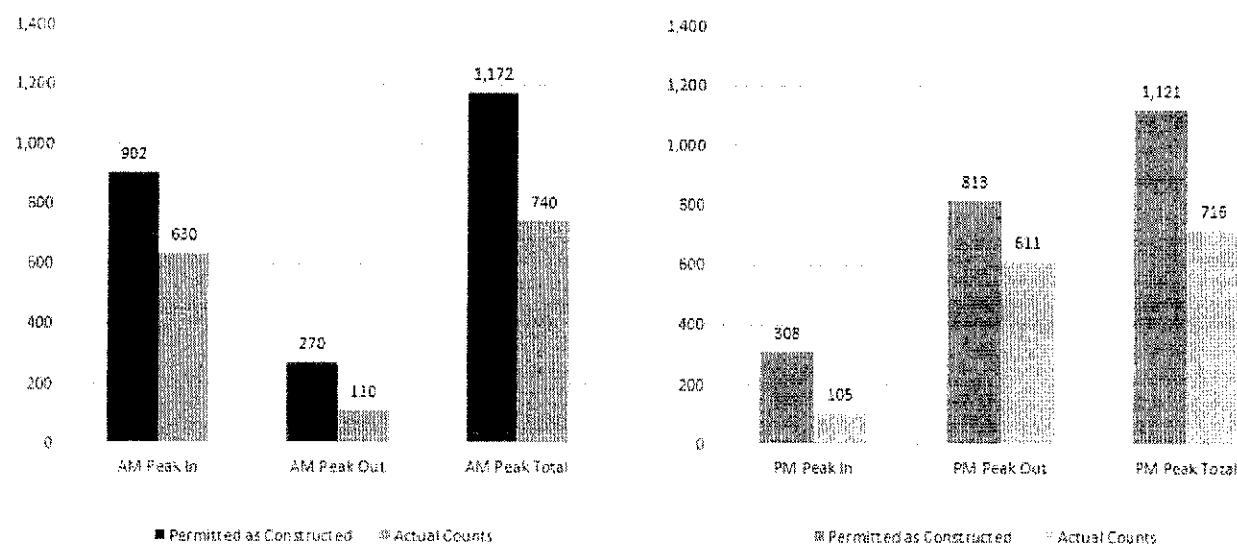
Table 2: Comparison of Actual Trips and Estimated Trips

	AM Peak			PM Peak		
	In	Out	Total	In	Out	Total
Estimated Trips¹	902	270	1,172	337	851	1,188
Actual Trips²	630	110	740	105	611	716
Difference (Actual - Approved)	(-272)	(-160)	(-432)	(-232)	(-240)	(-472)

¹Estimated Trips taken from SDEIR submitted to MEPA on August 15, 2015, subtracting out trips generated by unconstructed buildings (380 1st Ave, 37 A St, 2 B St, 156 B St)

²Actual trips from counted conducted on October 10, 2019

Figure 5: Comparison of Actual Trips and Estimated Trips



As summarized in **Table 2**, the results of these counts indicate that the trips, as approved in the SDEIR, are an overestimation of the actual number of trips generated by Founder's Park. During the morning peak commuter period, actual trip making was determined to be about 37 percent lower than that characterized during the permitting effort in 2015. Similarly, actual trip making during the evening commuter peak was quantified to be about 36 percent lower than those estimates made during the conduct of the approved traffic study. The constructed/occupied buildings on-site are not producing trips at the permitted rate and actual trips to the site are below the permitted estimates.

Proposed Change of Use

The permitted and proposed uses and associated area for each building BCH is looking to develop is described in **Table 3**. BCH is looking to change the permitted office use into a combination of pediatric ambulatory and office use. The pediatric ambulatory center portion of the development will consist of a variety of medical services for children including but not limited to outpatient care, day surgeries, orthopedics and sports medicine, rehabilitation center, and radiology laboratories. These spaces will be supported by the office portion of the development which will also include administrative space. The total square footage proposed by BCH for all three buildings is comparable to that previously approved in the DSEIR.

Table 3: Comparison of Permitted and Proposed Use

Address	Permitted		Proposed	
	Use	SF	Use	SF
380 1st Avenue	Office	189,509	Pediatric Ambulatory Center	235,000
37 A Street	Office	135,000	Pediatric Ambulatory Center	36,000
			Office	54,000
2 B Street	Office	127,145	Office	127,145
Total		451,654		452,145

Proposed Trip Generation

Consistent with the methodology utilized for the previously approved SDEIR trip generation estimates, the Proposed Project trips will also be based on the *ITE Trip Generation Manual*, 9th Edition. There is no pediatric ambulatory land use within the *ITE Trip Generation Manual*. Therefore, a detailed study of what comprises this land use was conducted in order to find a comparable land use with trip generation data within the *ITE Trip Generation Manual*. Upon further research, it was determined that the medical-dental office building and hospital land uses would be most appropriate in estimating the number of trips generated by a pediatric ambulatory center. As defined by the *ITE Trip Generation Manual*, 9th Edition, a medical-dental office building is "a facility that provides diagnoses and outpatient care on a routine basis but is unable to provide prolonged in-house medical and surgical care" and a hospital is "any institution where medical or surgical care and overnight accommodations are provided to non-ambulatory and ambulatory patients." A combination of the medical-dental office building and hospital uses as outlined below seem to be the best for the pediatric ambulatory center use for the Proposed Project. The estimated trips for each building is outlined in **Table 4** below. It is assumed that all medical trips will use a 100% auto mode share and consistent with the previously approved SDEIR all office uses will assume a 90% auto mode share.

Table 4: Estimated BCH Trip Generation

Address	Proposed Use	ITE Land Use Code	Estimated Auto Trips					
			AM Peak			PM Peak		
			SF	Enter	Exit	Total	Enter	Exit
380 1st Avenue	Pediatric Ambulatory Center	Medical-Dental Office Building	117,500	222	59	281	117	302
		Hospital	117,500	81	31	112	31	78
37 A Street	Pediatric Ambulatory Center	Medical-Dental Office Building	36,000	68	18	86	36	93
	Office	General Office Building	54,000	72	10	82	13	62
2 B Street	Office	General Office Building	127,145	171	23	194	30	147
Total			452,145	614	141	755	227	682
								909

Trip Generation Comparison

A comparison of the approved 2015 SDEIR trip estimates and the proposed Founders Park with BCH trip estimates is shown below. The trips associated with the proposed Founders Park with BCH are estimated by various sources:

- Actual/counted trips from the constructed/occupied Founders Park buildings (Table 2)
- BCH Trips (Table 4)
- Unbuilt Center 128 East hotel/retail (estimate from 2015 SDEIR)

The BCH trips and unbuilt Center 128 East hotel/retail are added to the actual counted trips to provide a comparison from the original 2015 SDEIR Forecast. **Table 5** and **Figure 6** provide a comparison of the trip generation estimates for the proposed Founders Park with BCH to the original SDEIR program.

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Table 5: Trip Generation Comparison

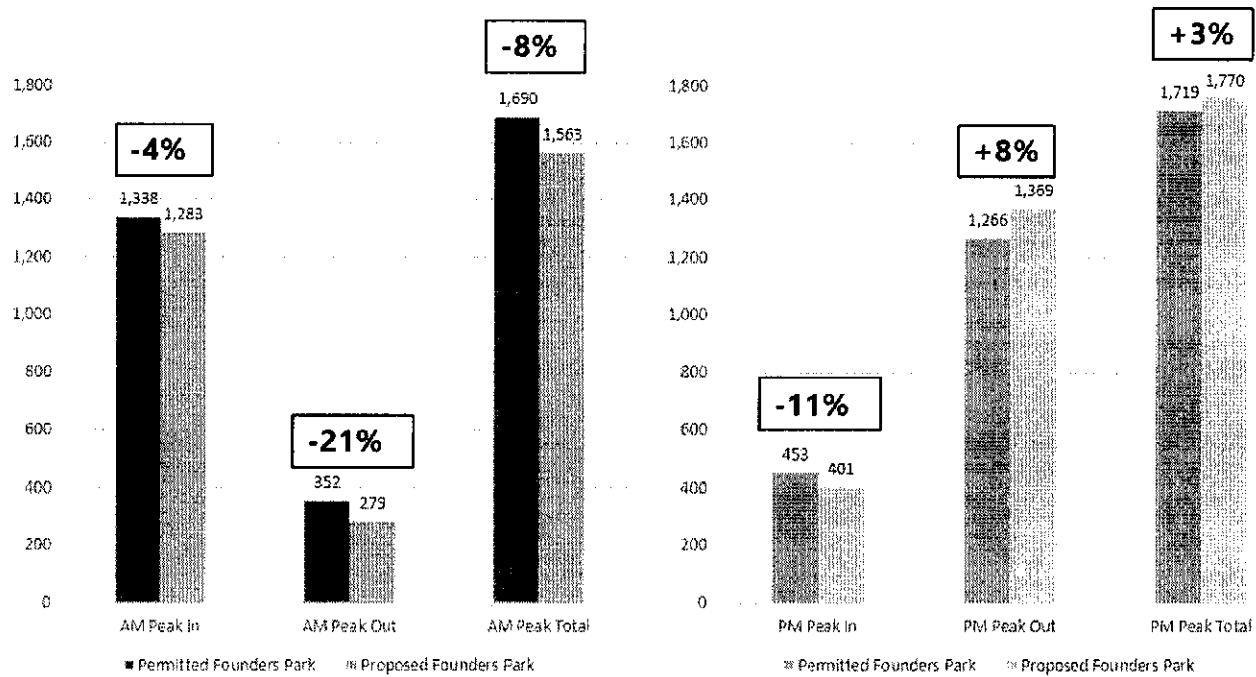
Time Period/ Direction	Permitted ¹	Proposed Project ² + Actual Trips ³	Difference
Morning Peak Hour			
Entering	1,338	1,283	(-55)
Exiting	352	279	(-73)
Total	1,690	1,563	(-127)
Evening Peak Hour			
Entering	453	401	(-52)
Exiting	1,266	1,369	103
Total	1,719	1,770	51

¹Approved Trips taken from SDEIR submitted to MEPA on August 15, 2015

²ITE Trip Generation Manual 9th Edition used for trip generation estimates per BCH program as previously noted

³Actual trips from counted conducted on October 10, 2019, also includes estimated trips associated with the unbuilt hotel/retail in Center 128 East

Figure 6: Approved vs. Proposed Trip Generation



As shown in **Table 5** and **Figure 6**, the Project is expected to generally have similar or lower trip generation characteristics when compared to the 2015 SDEIR, dependent on the time period and directionality. During the morning peak hour, the Project is expected to generate 127 fewer trips than the permitted estimate in the 2015 SDEIR. During the evening peak hour, the Project has been estimated to generate 51 more trips than the permitted estimate in the 2015 SDEIR.



To: Paula Quan, VP of Capital
Planning and Design
Boston Children's Hospital
300 Longwood Avenue
Boston, MA 02115

Date: January 24, 2020

Project #: 14631.00

From: Sean Manning, PE
Ryan White, PE

Re: BCH Founders Park Estimated/
Comparative Parking Demand Analysis

Memorandum

Overview

Boston Children's Hospital (BCH) is proposing to construct, in one or more buildings, a Pediatric Medical Facility at Founders Park in Needham, Massachusetts. As currently contemplated, the Project will be constructed in phases over time with only a single building in the first phase. A key element needed to support a premier arrival experience is ensuring that adequate parking is provided to accommodate expected patient and employee demands. This assessment outlines the approach utilized to help conservatively estimate the parking needs for the proposed BCH Pediatric Medical Facility. Included herein is an operational parking needs assessment based on national benchmarked ratios and the proposed building program and a comparable facility parking assessment based on a review of similar BCH satellite campuses in eastern Massachusetts. The Project is required to accommodate all parking on-site and the goal of the study is to ensure the recommended parking ratio is appropriate to accommodate expected demands and limit any unintended parking and traffic impacts.

This memorandum refers to the Founder's Park development as described in the Supplement Draft Environmental Impact Report (SDEIR) submitted to the Massachusetts Environmental Policy Act on August 31, 2015. As illustrated in **Figure 1**, the Founder's Park site was separated into three components for filing/permitting purposes: Center 128 West, Center 128 East and the 2nd Avenue Residences. As shown in **Figure 2**, four development sites within the total Founder's Park development are still undeveloped. Three sites (all permitted as office buildings) are located in Center 128 West and one site (permitted as hotel with retail) is located in Center 128 East. BCH is looking to develop the three sites (380 1st Avenue, 37 A Street, and 2 B Street) in Center 128 West and modify the approved land use to a combination of pediatric medical facility and general office.

Overall, this assessment recommends a proposed parking ratio for a Pediatric Medical Facility land use of one parking space per 290 SF of floor area (or 3.45 spaces per 1,000 SF).

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Figure 1: Founder's Park Site

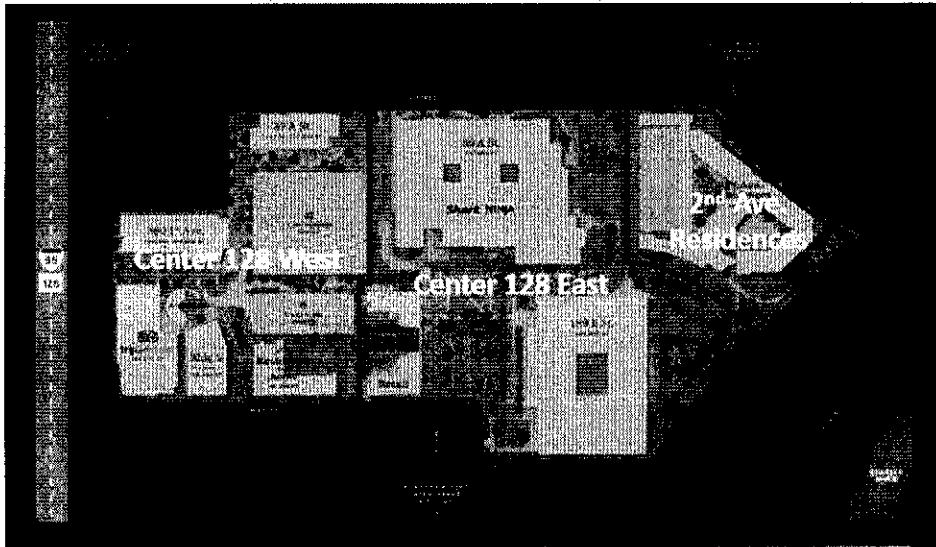
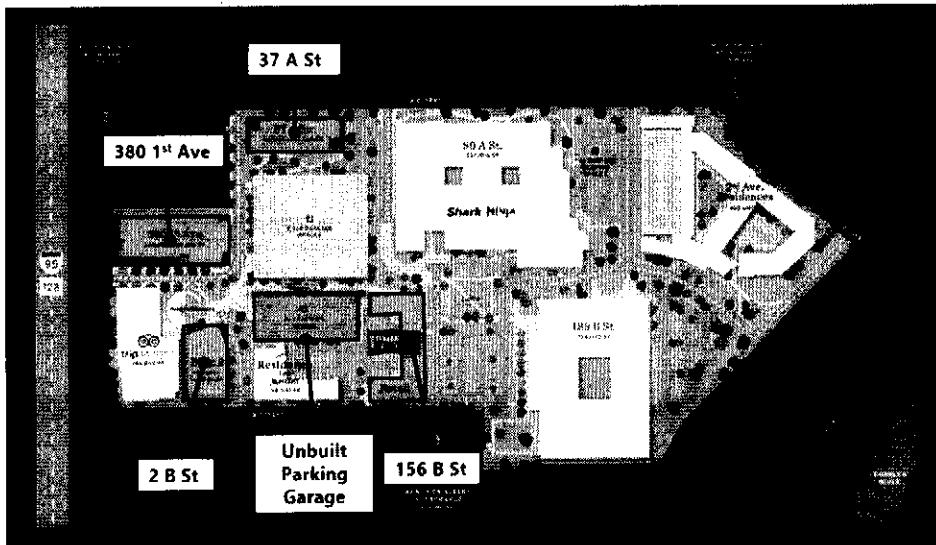


Figure 2: Undeveloped Sites within Founder's Park





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Memorandum

Program

BCH Founders Park will contain approximately 452,000 SF of building program across three sites. **Table 1** outlines the program and land use for each site as currently proposed.

Table 1 BCH Proposed Development Program

Location	Land Use	Program Size (KSF)
380 1 st Ave	Pediatric Ambulatory Center	215
	Office	20
37 A St	Pediatric Ambulatory Center	36
	Office	54
<u>2 B St</u>	Office	<u>127</u>
Total		452

Note: 2 B Street size and program based on DSEIR 2 B St building program, dated August 31, 2019

Operational Parking Assessment

Multiple methods were utilized to help quantify the estimated parking demand needed to support the Proposed Project. The first method involved the use of benchmarked ratios developed for various programmatic elements and applied them to the proposed BCH building program. These benchmarked ratios are based on a review conducted by VHB of peer healthcare institution's program and parking needs to support the demand. This includes institutions from around the country but focuses on local peer facilities.

Unlike a typical office space, not every area of the pediatric medical facility will generate a parking demand at the same ratio. For example, areas for patient care will generate a higher parking demand than employee support area within the same building. Some building areas will have no real parking need. Space generator types and their associated parking metric used for this study are listed below:

- Patient Care Area: 5.0 spaces/KSF
- Office Area: 3.0 spaces/KSF
- Employee Support Area: 2.0 spaces/KSF
- Building Support Area: 0.0 spaces/KSF

A detailed review of each building's program was conducted, and spaces were classified into one of these four spaces types. A summary of the estimated parking need for the Proposed Project, based on this methodology, is presented in **Table 2**.



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Memorandum

Table 2 Operational Parking Assessment Summary

Space Type	Size (KSF)	Parking Metric (spaces/KSF)	Parking Demand
Patient Care Area	191	5.0	955
Office Area	127	3.0	381
Employee Support Area	74	2.0	148
<u>Building Support Area</u>	<u>60</u>	0.0	<u>0</u>
Total	452		1,484

The operation parking assessment method estimates that the Proposed Project will require a parking demand of approximately 1,484 spaces. This equates to an equivalent parking ratio of 3.28 spaces/KSF.

Comparable Facility Parking Assessment

The second method utilized to estimate the BCH parking need was based on a review of comparable satellite pediatric facilities that BCH operates at other eastern Massachusetts locations, including Brookline, Waltham and Peabody. These campuses offer similar types of pediatric medical services, currently operate similar to expected operations at the Proposed Project and provide on-site parking to accommodate the associated demand. **Table 3** outlines the facilities characteristics and parking ratio.

Table 3 Estimated Demand based on Comparable Facility Assessment

Location	On-Site Parking (spaces)	Building Size (KSF)	Parking Ratio (spaces/KSF)
Brookline	674	228	2.96
Waltham	1,132	390	2.90
Peabody	1,079	389	2.77

Note: Peabody is shared facility. Values are inclusive of all building uses, both BCH and non-BCH (office use).

Based on the parking ratios presented in **Table 3**, the average parking ratio of other BCH pediatric medical facilities was determined to be 2.87 spaces/KSF. By applying this metric to the 452,000 SF Proposed Project, the comparable facility method yields a parking need of approximately 1,298 spaces.

Recommendation

As mentioned previously, providing adequate on-site parking needed to accommodate the expected patient and employee demand is a key element of the Proposed Project. The operational parking assessment, based on national benchmarked ratios and the proposed building program, yields an estimated parking ratio of 3.28 spaces/KSF (or one space per 305 SF) and the comparable facility assessment, based on a review of similar BCH satellite campuses, yields an estimated parking ratio of 2.87 spaces/KSF (or one space per 350 SF). As a goal of the study is to ensure a



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recommended parking ratio is conservatively higher than these comparative assessments, it is recommended that the operational assessment ratio be used, with a 5% factor of safety applied. Following this logic, the recommended proposed parking ratio for Pediatric Medical Facility land use has been calculated to be one parking space per 290 SF of floor area (or 3.45 spaces per 1,000 SF).

**Town of Needham, Massachusetts
Economic Development/Planning Department**

**Scope of Services
February 18, 2020**

**Parking Evaluation and Traffic Impact Study Scope and Fee for Boston Children's Hospital Founders Park
Contract No. XXX
Attachment A**

A. PROJECT DESCRIPTION

OWNER seeking traffic engineering services to perform a Parking Evaluation and Traffic Impact Study for the proposed Boston Children's Hospital (BCH) Pediatric Medical Facility at Founders Park (Center 128 West) in Needham. The proposed project consists of the following components totaling 452,000 square feet (SF):

- 380 1st Avenue – Pediatric Ambulatory Center (215,000 SF) & Office (20,000 SF)
- 37 A Street - Pediatric Ambulatory Center (36,000 SF) & Office (54,000 SF)
- 2 B Street - Office (127,000 SF)
- Total = 452,000 SF

Access to the three new buildings would be from 1st Avenue, A Street and B Street. In addition, a new parking garage with 1,560 spaces is proposed on-site between the existing parking garage and Marriott.

BCH is proposing to modify the current approved land use to a combination of pediatric medical facility and general office and accommodate all parking on-site.

B. SCOPE OF SERVICES

The CONSULTANT will provide the following services for the Parking Evaluation and Traffic Impact Study.

PARKING EVALUATION

Task 1 – Review Parking Demand Analysis. Review the parking demand analysis provided in the January 24, 2020 Memorandum by VHB. Identify parking demand rates for medical and office land use published in industry sources including Institute of Transportation Engineer's, Parking Generation. Compare industry parking rates to those provided in the January 24th Memorandum and SDEIR and FDEIR documents. Determine if general office land use is appropriate to use for a portion of the project to calculate parking demand, or if medical office use is more appropriate. Compare parking rates to those provided in the Proposed Zoning Amendment for a Pediatric Medical Facility and the existing Medical Overlay District.

Determine if the project is subject to MEPA review based on the number of proposed parking spaces.

Task 2 – Memorandum. Summarize the results of the parking evaluation in a Memorandum and provide a conclusion as to the adequacy of the proposed parking supply to meet the parking demand of the proposed project.

Task 3 – Meeting. Attend one meeting to discuss the findings of the parking evaluation.

Cost = \$5,500

TRAFFIC IMPACT STUDY

Task 1—Existing Conditions. BETA staff will perform site visits to record existing transportation information such as roadway and intersection geometrics, intersection control, lane utilization, pavement markings and signage, parking, traffic, pedestrian and bicycle operations and conflicts. We will also obtain signal timing and phasing plans.

Historic traffic turning movement counts (TMCs) at intersections between 2012 and 2015 are available from previous traffic studies and the DEIR. However, these traffic volumes do not represent the existing circulation and land use patterns in the study area; and therefore, cannot be used for this analysis. We suggest that new TMCs be conducted on a weekday between 7:00 and 9:00 AM and 4:00 and 6:00 PM at the following 11 intersections:

- Highland Street at 1st Street
- Highland Street at 2nd Street
- Kendrick Street at 3rd Street
- Kendrick Street at 4th Street
- Highland Street (EB) at I-95 SB Off Ramp
- Highland Street (WB) at I-95 SB On Ramp
- Highland Street (WB) at I-95 NB On Ramp & Highland Street (EB) at I-95 NB Off Ramp
- Kendrick Street at I-95 SB On/Off Ramps
- Kendrick Street at I-95 NB On/Off Ramps
- Highland Street at Gould Street and Hunting Road
- Kendrick Street at Hunting Road

Automatic Traffic Recorder (ATR) machines will collect traffic volume, vehicle classification, and speeds for 48 consecutive hours on a weekday at:

- Kendrick Street between 3rd Street and 4th Street
- Kendrick Street between I-95 and 3rd Street
- Highland Street between 1st Street and 2nd Street

The traffic count data will be summarized. Average Daily Traffic; intersection peak hour volumes for vehicles, pedestrians and bikes; truck volumes; and peak hour factors will be calculated. Traffic volume networks will be created for the AM and PM peak hours.

Crash data for the most recent available three-year period from MassDOT records will be obtained for study intersections and roadways. The data will be summarized to identify total crashes, crash type, severity, and roadway conditions. Crash rates will be calculated.

Cost = \$10,500

Task 2 – No-Build Traffic Volumes. Future traffic volumes for a No-Build condition (without the proposed project) will be developed. This will include projects planned or proposed in the study area. Background traffic growth will also be included by identifying an annual growth factor. No-Build traffic volumes will be developed for year 2027 for each of the study intersections for the AM and PM peak hours.

Cost = \$3,600

Task 3—Trip Generation/Distribution/Assignment Update. Estimate trip generation for the proposed project based on the latest Institute of Transportation Engineers (ITE) Trip Generation Manual. Trips will be identified by mode for vehicles, transit, pedestrians, and bicyclists. Determine the appropriate project land use for medical office versus general office space for estimating trip generation. Compare calculated trip generation to that provided in memoranda from the project proponent and SDEIR and FEIR documents.

Determine if the project is subject to MEPA review based on the estimated vehicle trip generation for the proposed project.

Trip distribution will be developed from employer and patient home locations provided by BCH. Vehicle trips will be assigned to the study roadway network based on circulation patterns and access/egress points. Trips will be evaluated for the AM and PM peak hours. The resultant AM and PM project-generated trips will be added to the No-Build traffic volumes to create the 2027 Build condition traffic volumes.

Cost = \$6,400

Task 4—Traffic Analysis. Perform intersection capacity analysis for the 11 study locations for the Existing, No-Build and Build conditions for the AM and PM peak hours. The following will also be evaluated:

- Access and egress for each proposed project building
- Truck loading
- Parking
- Pedestrian and bicycle facilities including accessibility
- Transit and TNC facilities
- Transportation Demand Management

The traffic impacts generated by the proposed project will be identified.

Based on the traffic analysis results, the level of traffic impacts will be identified, and improvement measures will be developed to mitigate project impacts. For planning purposes, a ball-park construction cost estimate will be developed for the recommended mitigations.

Cost: \$14,500

Task 5—Study Report. Summarize the results of Tasks 1 through 4 in a technical report.

Cost: \$4,300

Task 6—Meetings. Attend up to three Meetings with Town Officials, Planning or Zoning Boards.

Cost: \$4,500

FEE

The fee for the above services is \$49,300. It is anticipated that the traffic study will be completed in four weeks upon receiving the notice to proceed.