

NEEDHAM PLANNING BOARD
Wednesday August 26, 2020
7:30 p.m.

Virtual Meeting using Zoom
Meeting ID: **826-5899-3198**
(Instructions for accessing below)

To view and participate in this virtual meeting on your phone, download the “Zoom Cloud Meetings” app in any app store or at www.zoom.us. At the above date and time, click on “Join a Meeting” and enter the following Meeting ID: **826-5899-3198**

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us click “Join a Meeting” and enter the following ID: **826-5899-3198**

1. Planning Board Recommendation on Zoning Articles for October 2020 Special Town Meeting.

Article 1: Amend Zoning By-Law – Avery Square Overlay District

Article 2: Amend Zoning By-Law – Map Change to Avery Square Overlay District

2. ANR Plan – 770 Chestnut Street LLC, Petitioner, (Property located at 770 Chestnut Street, Needham, MA).
3. Report from Planning Director and Board members.

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

ARTICLE 1: AMEND ZONING BY-LAW – AVERY SQUARE OVERLAY DISTRICT

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

- (a) Amend the definition of “Independent Living Apartments” in Section 1.3, Definitions, by (i) adding the words “or Avery Square Overlay District” after the words “Elder Services Zoning District”; (ii) deleting the word “only” before the words “residential uses”; and (iii) adding to the end of the definition the sentence “; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities but need not be part of a Continuing Care Retirement Community.”, so that it reads as follows:

“A building in the Elder Services Zoning District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“ASOD -- Avery Square Overlay District”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.15, Avery Square Overlay District, to read as follows:

“3.15 Avery Square Overlay District

3.15.1 Purposes of District

The purposes of the Avery Square Overlay District (“ASOD”) are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the Avery Square Overlay District shall, as set forth in this Section 3.15, be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning

district provided that such development complies with all other requirements of this Section 3.15.

3.15.2 Scope of Authority

In the Avery Square Overlay District, all requirements of the underlying district shall remain in effect except where this Section 3.15 provides an alternative to such requirements, in which case the requirements of this Section 3.15 shall prevail. If the provisions of the Avery Square Overlay District are silent on a requirement that applies in the underlying district, the requirements of the underlying district shall apply.

By filing an application for a Special Permit, site plan review or building permit under this Section 3.15, an applicant shall be deemed to accept and agree to the provisions and requirements of this Section 3.15. If an applicant elects to proceed pursuant to zoning provisions of the underlying district, the provisions and requirements of this bylaw applicable in the underlying district shall control and the provision of the Avery Square Overlay District shall not apply.

3.15.3 Use Regulations

3.15.3.1 Permitted Uses

The following uses are permitted in the Avery Square Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.
- (d) ~~A~~ccessory uses permitted as of right in the underlying district.

3.15.3.2 Special Permit Uses

The following uses are allowed in the Avery Square Overlay District by Special Permit issued by the Planning Board:

- (a) All uses allowed by special permit in the Avery Square Business District as set forth in Section 3.2.2 of this Bylaw, except those uses permitted as a matter of right as set forth in Section 3.15.3.1, above.
- (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities
- (c) Independent Living Apartments.

- (d) ~~B Mixed-use~~ buildings with multiple uses containing, as a primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

3.15.4 Dimensional Regulations

3.15.4.1 Building Height and Related Requirements

The maximum building height (including mechanical structures such as HVAC equipment) in the Avery Square Overlay District shall be 44 feet. This height limitation shall not apply to elevator shaft overruns, which shall not exceed a maximum height of 49 feet.

A building or structure which is located on property in the Avery Square Overlay District may include, but not exceed, four (4) stories, all of which may be occupied, except in the following circumstances:

- (a) With respect to the existing building, if a different use is proposed for the building that does not include Independent Living Apartments and/or Assisted Living and/or Alzheimer's/ Memory Loss Facilities as the primary use(s), then the proposed use shall be governed by the use regulations of Section 3.15.3, above, but the fourth story cannot be occupied without a special permit.
- (b) If the Special Permit described in subparagraph (a), above is not granted, the fourth story shall remain unoccupied for such use, but the fourth story, and any associated mechanical equipment, does not need to be demolished.
- (c) In the event the existing building is demolished, if the primary use(s) of the successor building is not one or both of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), then the successor building shall not be permitted to have a fourth story.

The ability to use and occupy the fourth story, when permitted by a Special Permit granted pursuant to Sections 3.15.3.2 (b) and/or 3.15.3.2 (c), shall continue notwithstanding (i) a shift in the number of units from the use described in Section 3.15.3.2 (b) to the use described in Section 3.15.3.2 (c), or vice-versa; or (ii) the elimination of one of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), provided such shift or elimination is allowed by such Special Permit or amendment thereto.-

For the fourth story, minimum setback requirements, measured from the façade(s) of the building on which such fourth story is located, shall be as follows: from the eastern façade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western façade of the building, zero (0) feet; from the southern façade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade is required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

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The total floor area of any fourth floor addition to the ~~existing~~ building may not exceed thirty-five percent (35%) of the total roof area of the ~~existing~~ building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, shall not be included in the calculation of maximum allowable floor area hereunder.

Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other height limitations nor any other limitations contained in Section 4.4.3.

3.15.4.2 Building Bulk and Other Requirements

The maximum floor area ratio in the Avery Square Overlay District shall be 1.1. Property contiguous with and in common ownership with property in the Avery Square Overlay District shall be included in the lot for purposes of calculating floor area ratio. The enclosed area of a building devoted to off-street parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk ~~such as are~~ contained in Sections 4.4.2, 4.4.7 and 4.4.9.

3.15.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in Section 4.4.6 shall apply in the Avery Square Overlay District.

- (a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
- (1) For Independent Living Apartments, there shall be one space per Apartment.
 - (2) For Assisted Living units and Alzheimer's/Memory Loss units, the parking requirement shall be one space for every two beds, plus one space for each two employees on the largest shift.
- (b) Notwithstanding anything to the contrary elsewhere in this Bylaw, including but not limited to Section 4.4.8.4, in the event that land located in the Single Residence B Zoning District
- (1) is adjacent to the Avery Square Overlay District;
 - (2) is in common ownership with adjacent land located in the Avery Square Overlay District; and

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- (3) prior to approval of this Section 3.15, was improved as a parking area associated with a building located in the Avery Square Overlay District;

then, provided that said land extends into the Single ~~R~~esidence B Zoning District not more than one hundred (100') feet from the boundary line between the Single Residence B Zoning District and the Avery Square Business District, said land may, as a matter of right, be used as a parking area accessory to uses permitted in the Avery Square Overlay District by right or by special permit.

3.15.6 Affordable Housing

Any ~~mixed-use~~ building with ten or more Independent Living Apartments shall include affordable housing units as defined in Section 1.3 of this By-Law, as may be modified in this Section 3.15.6. The following requirements shall apply to a development that includes ~~ten or more Independent Living Apartments~~affordable units:

- (a) ~~For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.~~
- (b) If the Applicant provides at least one-half of the affordable Independent Living Apartments required herein for households with incomes at or below 50% of area median income, the remaining affordable Independent Living Apartments may be rented to households with incomes up to 100% of area median income even if the latter units are therefore not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.
- (c) ~~For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.~~
- Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit-specific real estate-related amenities and are excluded from such comparability requirements.
- (d) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.

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(e) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.”

- (d) Amend Section 4.4.4 Front Setback, by adding the following paragraph after the fourth paragraph of that section:

“In the Avery Square Overlay District, the front setback, if any, shall be kept open and landscaped with grass, plants, and other non-paving materials such as mulch, and shall be unpaved except for patios, walks, and driveways as defined in section 4.4.5. Walls (including walls serving in part as retaining walls) no higher than 36 inches above the grade of the patios, as well as fencing and privacy screening, along the front and side edges of the patios, shall be allowed in the Avery Square Overlay District.”

- (e) Amend Section 4.4.6 Enclosed Parking, by adding the phrase “for each square foot” before the words “of parking space (excluding driveways and aisles)” on the fourth line of the first paragraph of that section so that it reads as follows:

“Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setback as provided herein. The lot coverage of the building may be increased up to 2 ½ % points above the maximum allowed percentage, by one square foot for each square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself.”

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

In the Center Business District, enclosed parking shall be entirely below the grade of adjoining streets measured at their respective center lines. Access to enclosed parking shall be from the rear of the building. If provided, enclosed parking shall not be visible from the street. The placement of parking underground shall not raise the first non-parking floor of a structure above grade. Municipal parking facilities in the Center Business District shall be exempt from this provision.”

- (b) Amend Section 7.6.1 Special Permit Granting Authority, by adding the number “3.15” after the number “3.14” on the second line of that Section so that it reads as follows:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 3.15, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this Bylaw. In all other cases the Board of Appeals shall act as the Special Permit Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals,

except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

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

Article Explanation: Articles 1 and 2 are proposed Zoning Bylaw amendments that are intended to facilitate the redevelopment of the currently vacant Carter Mill Building at the corner of Highland Avenue and West Street. The Carter factory and mill was established at that site beginning around 1865, and, for the next 125 years until approximately 1990, the factory and mill operated at that location. The building has become a well-known landmark in Needham.

In 1993, the building was approved for the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home. In 1995, a small portion of the building was also approved for medical office use. In 2017, Avery Crossing and Avery Manor were closed, as well as the medical offices, and the building has remained vacant since that time. The proposed Bylaw amendments will allow the empty Carter Mill building to be renovated to create a senior housing community (155 units are proposed), upgraded and renovated to create a 155 apartment senior housing community, including 72 age restricted Independent Living apartments (72 units proposed), 55 Assisted Living apartments (55 units), and 28 Memory Care units (28 units).

Article 1 and 2 Description

Article 1 proposes to create the Avery Square Overlay District (“ASOD”), and lays out the regulatory framework for the new overlay district, while Article 2 describes its geographic boundaries. The boundaries of the ASOD match the boundaries of property on which the former Carter Mill building sits, except at the southern end of the property, where the overlay district boundary matches the boundary of the Avery Square Business District. The overlay district’s key provisions are summarized below.

Geographic Designation of the District

The ASOD is bounded on the north by West Street; on the east by Highland Avenue; on the south by the existing zoning boundary line between the Avery Square Business District and the adjacent SRB district, which runs through the existing parking area south of the existing building; and on the west by the MBTA commuter railroad right-of-way.

Purpose of the District

The purposes of the ASOD are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the proposed Avery Square Overlay District would be permitted to exceed certain density and dimensional requirements that normally apply in the underlying Avery Square Business District, provided that such development complies with all other requirements of the proposed Warrant Article.

Definitions

The proposed Warrant Article would amend the definition of “Independent Living Apartments” in Section 1.3 of the Bylaw so that within the ASOD, Independent Living Apartments may be located in the same building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.

Permitted Uses

The proposed ASOD Warrant Article lists the uses that are allowed as-of-right or by special permit. The use schedule largely mirrors that of the underlying Avery Square Business District with the following additional uses allowed by special permit: Assisted Living and/or Alzheimer’s/Memory Loss Facilities; Independent Living Apartments; and Mixed-use buildings containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

The proposed ASOD warrant Article specifies that the Planning Board will be the Special Permit Granting Authority for all such special permits.

Allowable Building Height, Number of Stories, and Occupancy

The proposed maximum allowable building height (including mechanical structures such as HVAC equipment) in the ASOD is 44 feet. This height limitation does not apply to elevator shaft overruns, which cannot exceed a maximum height of 49 feet. The building may include, but not exceed, four (4) stories, all of which may be occupied. At present, the building includes three stories, all of which were occupied while the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home were in operation.

Restrictions on the 4th Story

Under the proposed ASOD Warrant Article, the total floor area of any fourth-floor addition to the existing building may not exceed thirty-five percent (35%) of the total roof area of the existing building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, is not included in the calculation of maximum allowable floor area.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building, are proposed as follows: from the eastern facade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western facade of the building, zero (0) feet; from the southern facade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade would be required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The minimum setbacks and limit on the percentage of the existing footprint of the building that can be used for a fourth story will reduce the visual impact of the fourth story.

If the primary use of the existing building ceases to be Independent Living Apartments and/or Assisting Living and or Alzheimer’s/Memory Care Facilities, then the 4th story cannot continue to be occupied unless a special permit is granted allowing such continued occupancy, but the 4th story need not be demolished, and if the existing building is demolished and the primary use(s) are not Independent Living

Apartment and/or Assisted Living and or Alzheimer's/Memory Care Facilities then the new building cannot have a 4th story.

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Building Bulk and Other Requirements

The proposed maximum floor area ratio ("FAR") in the ASOD is 1.1. The property at the southern end of the parcel, in the adjacent SRB district, that is contiguous with and in common ownership with property in the Avery Square Overlay District, will be included in the lot for purposes of calculating FAR. In the proposed overlay district, the FAR calculation excludes garage parking within the building.

Off-Street Parking

The minimum number of off-street parking spaces specified in Section 5.1.2 of the Bylaw will apply except that for Independent Living Apartments, there will be one parking space per Apartment; and for Assisted Living units and Alzheimer's/Memory Loss units, the requirement will be one parking space for every two beds, plus one parking space for every two employees on the largest shift.

At present, there is a portion of the southern parking area that extends into the SRB district adjacent to the boundary of the ASOD (and underlying ASB District). Parking in this area will be continued and will be allowed as-of-right, provided that the parking area does not extend any further into the SRB district than is presently the case.

Affordable Housing

In the proposed ASOD Warrant Article, twelve and one-half percent (12.5%) of the Independent Living Apartments must be affordable units. Fractions are rounded up to the nearest whole number. There is no affordable housing requirement for Assisted Living and Alzheimer's/Memory Loss Facilities.

Affordable units will be dispersed within the building and not concentrated in one area or on one floor. They will generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the building's market-rate units. The selection of eligible homebuyers or renters for the affordable units will be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the building. The affordable units will also be subject to an affordable housing restriction as defined in Section 1.3 of the Town By-Laws.

Other Proposed Changes to the Bylaw

In order to facilitate the proposed renovation of the building, the proposed Warrant Article would amend the definition of "Front Setback" elsewhere in the Bylaw to allow ground-level patios (of less than 100 square feet each), and walls no higher than 36 inches around those patios, serving some of the ground-floor units that will face Highland Avenue.

The proposed Warrant Article also would make a small change to the Bylaw Section 4.4.6, Enclosed Parking, to correct a wording error, but not change its meaning and effect.

ARTICLE 1: AMEND ZONING BY-LAW – AVERY SQUARE OVERLAY DISTRICT

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

- (a) Amend the definition of “Independent Living Apartments” in Section 1.3, Definitions, by (i) adding the words “or Avery Square Overlay District” after the words “Elder Services Zoning District”; (ii) deleting the word “only” before the words “residential uses”; and (iii) adding to the end of the definition the sentence “; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities but need not be part of a Continuing Care Retirement Community.”, so that it reads as follows:

“A building in the Elder Services Zoning District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“ASOD -- Avery Square Overlay District”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.15, Avery Square Overlay District, to read as follows:

“3.15 Avery Square Overlay District

3.15.1 Purposes of District

The purposes of the Avery Square Overlay District (“ASOD”) are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the Avery Square Overlay District shall, as set forth in this Section 3.15, be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning

district provided that such development complies with all other requirements of this Section 3.15.

3.15.2 Scope of Authority

In the Avery Square Overlay District, all requirements of the underlying district shall remain in effect except where this Section 3.15 provides an alternative to such requirements, in which case the requirements of this Section 3.15 shall prevail. If the provisions of the Avery Square Overlay District are silent on a requirement that applies in the underlying district, the requirements of the underlying district shall apply.

By filing an application for a Special Permit, site plan review or building permit under this Section 3.15, an applicant shall be deemed to accept and agree to the provisions and requirements of this Section 3.15. If an applicant elects to proceed pursuant to zoning provisions of the underlying district, the provisions and requirements of this bylaw applicable in the underlying district shall control and the provision of the Avery Square Overlay District shall not apply.

3.15.3 Use Regulations

3.15.3.1 Permitted Uses

The following uses are permitted in the Avery Square Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.
- (d) Accessory uses permitted as of right in the underlying district.

3.15.3.2 Special Permit Uses

The following uses are allowed in the Avery Square Overlay District by Special Permit issued by the Planning Board:

- (a) All uses allowed by special permit in the Avery Square Business District as set forth in Section 3.2.2 of this Bylaw, except those uses permitted as a matter of right as set forth in Section 3.15.3.1, above.
- (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities
- (c) Independent Living Apartments.

- (d) Buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

3.15.4 Dimensional Regulations

3.15.4.1 Building Height and Related Requirements

The maximum building height (including mechanical structures such as HVAC equipment) in the Avery Square Overlay District shall be 44 feet. This height limitation shall not apply to elevator shaft overruns, which shall not exceed a maximum height of 49 feet.

A building or structure which is located on property in the Avery Square Overlay District may include, but not exceed, four (4) stories, all of which may be occupied, except in the following circumstances:

- (a) With respect to the existing building, if a different use is proposed for the building that does not include Independent Living Apartments and/or Assisted Living and/or Alzheimer's/ Memory Loss Facilities as the primary use(s), then the proposed use shall be governed by the use regulations of Section 3.15.3, above, but the fourth story cannot be occupied without a special permit.
- (b) If the Special Permit described in subparagraph (a), above is not granted, the fourth story shall remain unoccupied for such use, but the fourth story, and any associated mechanical equipment, does not need to be demolished.
- (c) In the event the existing building is demolished, if the primary use(s) of the successor building is not one or both of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), then the successor building shall not be permitted to have a fourth story.

The ability to use and occupy the fourth story, when permitted by a Special Permit granted pursuant to Sections 3.15.3.2 (b) and/or 3.15.3.2 (c), shall continue notwithstanding (i) a shift in the number of units from the use described in Section 3.15.3.2 (b) to the use described in Section 3.15.3.2 (c), or vice-versa; or (ii) the elimination of one of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), provided such shift or elimination is allowed by such Special Permit or amendment thereto.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building on which such fourth story is located, shall be as follows: from the eastern facade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western facade of the building, zero (0) feet; from the southern facade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade is required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The total floor area of any fourth floor addition to the building may not exceed thirty-five percent (35%) of the total roof area of the building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, shall not be included in the calculation of maximum allowable floor area hereunder.

Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other height limitations nor any other limitations contained in Section 4.4.3.

3.15.4.2 Building Bulk and Other Requirements

The maximum floor area ratio in the Avery Square Overlay District shall be 1.1. Property contiguous with and in common ownership with property in the Avery Square Overlay District shall be included in the lot for purposes of calculating floor area ratio. The enclosed area of a building devoted to off-street parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk contained in Sections 4.4.2, 4.4.7 and 4.4.9.

3.15.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in Section 4.4.6 shall apply in the Avery Square Overlay District.

- (a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:
 - (1) For Independent Living Apartments, there shall be one space per Apartment.
 - (2) For Assisted Living units and Alzheimer's/Memory Loss units, the parking requirement shall be one space for every two beds, plus one space for each two employees on the largest shift.
- (b) Notwithstanding anything to the contrary elsewhere in this Bylaw, including but not limited to Section 4.4.8.4, in the event that land located in the Single Residence B Zoning District
 - (1) is adjacent to the Avery Square Overlay District;
 - (2) is in common ownership with adjacent land located in the Avery Square Overlay District; and
 - (3) prior to approval of this Section 3.15, was improved as a parking area associated with a building located in the Avery Square Overlay District;

then, provided that said land extends into the Single Residence B Zoning District not more than one hundred (100') feet from the boundary line between the Single Residence B Zoning District and the Avery Square Business District, said land may, as a matter of right, be used as a parking area accessory to uses permitted in the Avery Square Overlay District by right or by special permit.

3.15.6 Affordable Housing

Any building with ten or more Independent Living Apartments shall include affordable housing units as defined in Section 1.3 of this By-Law, as may be modified in this Section 3.15.6. The following requirements shall apply to a development that includes ten or more Independent Living Apartments:

- (a) For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.
- (b) If the Applicant provides at least one-half of the affordable Independent Living Apartments required herein for households with incomes at or below 50% of area median income, the remaining affordable Independent Living Apartments may be rented to households with incomes up to 100% of area median income even if the latter units are therefore not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.
- (c) Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit-specific real estate-related amenities and are excluded from such comparability requirements.
- (d) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.
- (e) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction."
- (d) Amend Section 4.4.4 Front Setback, by adding the following paragraph after the fourth paragraph of that section:

“In the Avery Square Overlay District, the front setback, if any, shall be kept open and landscaped with grass, plants, and other non-paving materials such as mulch, and shall be unpaved except for patios, walks, and driveways as defined in section 4.4.5. Walls (including walls serving in part as retaining walls) no higher than 36 inches above the grade of the patios, as well as fencing and privacy screening, along the front and side edges of the patios, shall be allowed in the Avery Square Overlay District.”

- (e) Amend Section 4.4.6 Enclosed Parking, by adding the phrase “for each square foot” before the words “of parking space (excluding driveways and aisles)” on the fourth line of the first paragraph of that section so that it reads as follows:

“Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setback as provided herein. The lot coverage of the building may be increased up to 2 ½ % points above the maximum allowed percentage, by one square foot for each square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself.”

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

In the Center Business District, enclosed parking shall be entirely below the grade of adjoining streets measured at their respective center lines. Access to enclosed parking shall be from the rear of the building. If provided, enclosed parking shall not be visible from the street. The placement of parking underground shall not raise the first non-parking floor of a structure above grade. Municipal parking facilities in the Center Business District shall be exempt from this provision.”

- (b) Amend Section 7.6.1 Special Permit Granting Authority, by adding the number “3.15” after the number “3.14” on the second line of that Section so that it reads as follows:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 3.15, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this Bylaw. In all other cases the Board of Appeals shall act as the Special Permit Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals, except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

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

Article Explanation: Articles 1 and 2 are proposed Zoning Bylaw amendments that are intended to facilitate the redevelopment of the currently vacant Carter Mill Building at the corner of Highland Avenue and West Street. The Carter factory and mill was established at that site beginning around 1865, and, for the next 125 years until approximately 1990, the factory and mill operated at that location. The building has become a well-known landmark in Needham.

In 1993, the building was approved for the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home. In 1995, a small portion of the building was also approved for medical office use. In 2017, Avery Crossing and Avery Manor were closed, as well as the medical offices, and the building has remained vacant since that time. The proposed Bylaw amendments will allow the empty Carter Mill building to be renovated to create a senior housing community (155 units are proposed), including age restricted Independent Living apartments (72 units proposed) Assisted Living apartments (55 units), and Memory Care units (28 units).

Article 1 and 2 Description

Article 1 proposes to create the Avery Square Overlay District (“ASOD”), and lays out the regulatory framework for the new overlay district, while Article 2 describes its geographic boundaries. The boundaries of the ASOD match the boundaries of property on which the former Carter Mill building sits, except at the southern end of the property, where the overlay district boundary matches the boundary of the Avery Square Business District. The overlay district’s key provisions are summarized below.

Geographic Designation of the District

The ASOD is bounded on the north by West Street; on the east by Highland Avenue; on the south by the existing zoning boundary line between the Avery Square Business District and the adjacent SRB district, which runs through the existing parking area south of the existing building; and on the west by the MBTA commuter railroad right-of-way.

Purpose of the District

The purposes of the ASOD are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the proposed Avery Square Overlay District would be permitted to exceed certain density and dimensional requirements that normally apply in the underlying Avery Square Business District, provided that such development complies with all other requirements of the proposed Warrant Article.

Definitions

The proposed Warrant Article would amend the definition of “Independent Living Apartments” in Section 1.3 of the Bylaw so that within the ASOD, Independent Living Apartments may be located in the same building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.

Permitted Uses

The proposed ASOD Warrant Article lists the uses that are allowed as-of-right or by special permit. The use schedule largely mirrors that of the underlying Avery Square Business District with the following additional uses allowed by special permit: Assisted Living and/or Alzheimer's/Memory Loss Facilities; Independent Living Apartments; and Mixed-use buildings containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

The proposed ASOD warrant Article specifies that the Planning Board will be the Special Permit Granting Authority for all such special permits.

Allowable Building Height, Number of Stories, and Occupancy

The proposed maximum allowable building height (including mechanical structures such as HVAC equipment) in the ASOD is 44 feet. This height limitation does not apply to elevator shaft overruns, which cannot exceed a maximum height of 49 feet. The building may include, but not exceed, four (4) stories, all of which may be occupied. At present, the building includes three stories, all of which were occupied while the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home were in operation.

Restrictions on the 4th Story

Under the proposed ASOD Warrant Article, the total floor area of any fourth-floor addition to the existing building may not exceed thirty-five percent (35%) of the total roof area of the existing building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, is not included in the calculation of maximum allowable floor area.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building, are proposed as follows: from the eastern façade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western façade of the building, zero (0) feet; from the southern façade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade would be required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The minimum setbacks and limit on the percentage of the existing footprint of the building that can be used for a fourth story will reduce the visual impact of the fourth story.

If the primary use of the existing building ceases to be Independent Living Apartments and/or Assisting Living and or Alzheimer's/Memory Care Facilities, then the 4th story cannot continue to be occupied unless a special permit is granted allowing such continued occupancy, but the 4th story need not be demolished, and if the existing building is demolished and the primary use(s) are not Independent Living Apartments and/or Assisting Living and or Alzheimer's/Memory Care Facilities then the new building cannot have a 4th story.

Building Bulk and Other Requirements

The proposed maximum floor area ratio ("FAR") in the ASOD is 1.1. The property at the southern end of the parcel, in the adjacent SRB district, that is contiguous with and in common ownership with property in the Avery Square Overlay District, will be included in the lot for purposes of calculating FAR. In the proposed overlay district, the FAR calculation excludes garage parking within the building.

Off-Street Parking

The minimum number of off-street parking spaces specified in Section 5.1.2 of the Bylaw will apply except that for Independent Living Apartments, there will be one parking space per Apartment; and for Assisted Living units and Alzheimer's/Memory Loss units, the requirement will be one parking space for every two beds, plus one parking space for every two employees on the largest shift.

At present, there is a portion of the southern parking area that extends into the SRB district adjacent to the boundary of the ASOD (and underlying ASB District). Parking in this area will be continued and will be allowed as-of-right, provided that the parking area does not extend any further into the SRB district than is presently the case.

Affordable Housing

In the proposed ASOD Warrant Article, twelve and one-half percent (12.5%) of the Independent Living Apartments must be affordable units. Fractions are rounded up to the nearest whole number. There is no affordable housing requirement for Assisted Living and Alzheimer's/Memory Loss Facilities.

Affordable units will be dispersed within the building and not concentrated in one area or on one floor. They will generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the building's market-rate units. The selection of eligible homebuyers or renters for the affordable units will be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the building. The affordable units will also be subject to an affordable housing restriction as defined in Section 1.3 of the Town By-Laws.

Other Proposed Changes to the Bylaw

In order to facilitate the proposed renovation of the building, the proposed Warrant Article would amend the definition of "Front Setback" elsewhere in the Bylaw to allow ground-level patios (of less than 100 square feet each), and walls no higher than 36 inches around those patios, serving some of the ground-floor units that will face Highland Avenue.

The proposed Warrant Article also would make a small change to the Bylaw Section 4.4.6, Enclosed Parking, to correct a wording error, but not change its meaning and effect.



The Residence at Carter Mill

Many seniors choose to sell their homes to downsize and/or move closer to their children. In addition, they often are concerned about living alone for a variety of reasons, and are looking to find a place where they can be taken care of to the extent needed, while in a social environment. If they have owned a home in Needham or a similar town for a long time, selling their home is usually part of their financial plan for retirement.

The median home sale price in Needham is currently \$1,150,000. *

Older residents don't have many choices if they want to rent an apartment with amenities in a walkable location in Needham. There are a few non-age restricted apartment communities in the industrial park, or in other parts of town. The Webster Green apartments are located in Needham Heights, but they don't offer care or much in the way of amenities. There are a few condominium developments in Needham, such as Rosemary Ridge and Charles Court, but they do not meet the needs of renters. They all attract some older residents.

The Residence at Carter Mill - LCB Senior Living, LLC and Welltower have proposed that the Carter Mill building be revitalized and upgraded to include 155 high-quality, senior housing apartments;

- 72 Independent Apartments (63 market & 9 affordable) (Age-restricted)
- 55 Assisted Living Apartments (66 Beds)
- 28 Memory Care Apartments (30 Beds)

As proposed, The Residence at Carter Mill shall include a broad array of amenities including utilities, housekeeping, 24-hour staffing, a pool, recreation facilities, outdoor activity and seating areas, bocce, golf simulator, movie theater, daily opportunities for continuing education, culture, entertainment and socializing, meal plan and complementary transportation to area appointments and social events. It is a rental community with a one-time community fee upon entry. These entrance fees vary, but often are in the \$4-\$6,000 range. Residents must be over 55 to live at The Residence at Carter Mill, but given an average age of 84 in the assisted and memory care sections, tends to skew higher toward the mid-70's and up.

What will be the rent structure for independent units at The Residence at Carter Mill?

The Residence at Carter Mill - Market Rents (Independent)

The monthly rental fee for the The Residence at Carter Mill will be determined approximately 12 months prior to occupancy when LCB starts to pre-lease the apartments. Occupancy is currently anticipated during the summer of 2023. The rents will be in the same range as other

similar communities in the greater Needham area (see attached exhibit 1). The rent will include weekly housekeeping, utilities, transportation, recreational/social activities, on site resident assistance staff, a meal plan, and all of the amenities listed above. The Assisted Living and Memory Care residents can purchase additional services related to daily assistance as they need them.

The Residence at Carter Mill - Affordable Rents (Independent)

The affordable apartments rents will be dictated by income guidelines and allowable rents promulgated by the Massachusetts Department of Housing and Community Development (DHCD) and HUD (see attached exhibit 2). LCB is contracting with SEB Housing who will be responsible for the outreach, intake and selection process for the Affordable units so that this process conforms to DHCD guidelines. SEB Housing will also prepare the Affirmative Fair Housing Marketing Plan (AFHMP) and the LAU Application so that all the Affordable units count on the DHCD Subsidized Housing Inventory (SHI) for Needham. If designated by the Select Board, 6 of the 9 affordable apartments can go to local preference candidates.

The Residence at Carter Mill - Market Rents (Assisted Living)

Assisted Living residents will enjoy all of the amenities and services provided to Independent residents, along with daily assistance with the “activities of daily living” (ADL’s). This includes assistance with bathing and dressing, medication management, mealtime escort, and a range of other non-medical services. While determining specific rental rates will reflect the surrounding market in the months leading up to the project’s completion, they will be competitive with rents at other competing operators in the region (i.e. The Residences at Wingate in Needham, Waterstone at Wellesley).

The Residence at Carter Mill - Market Rents (Memory Care Living)

Memory Care residents will live in a secured area of the building where they will reside in private or shared apartments with a higher staff/resident ratio than the rest of the community. LCB’s Reflections Memory Care program is a non-pharmacological approach that focuses on the person, not the disease, seeking to slow the progress of dementia while creating daily opportunities for engagement, accomplishment and joy. While determining specific rental rates will reflect the surrounding market in the months leading up to the project’s completion, they will be competitive with rents at other competing operators in the region (i.e. The Residences at Wingate in Needham, Waterstone at Wellesley, Avita of Needham).

Where will the residents of The Residence at Carter Mill come from?

It is expected that the majority of people who rent at The Residence at Carter Mill currently live within a 5-mile radius (or their adult children do).

Are there enough seniors in the area to fill The Residence at Carter Mill?

Yes. There is a large, qualified, senior population of over 4,000 households within our market area. The number of qualified seniors will continue to increase as a percentage of the population over the next 15-20 years as the “Baby Boomer” generation ages. The existing senior housing communities in the areas have strong, stable occupancy.

The most similar facilities are:

- **Wingate at Needham** is a rental community offering Independent Living, Assisted Living, Memory Care and a large nursing home. It is a rental community and is located on the edge of town across from Muzi Ford. The rental fee includes utilities, a meal plan, housekeeping, transportation, social activities and other amenities including a pool, a gym and outdoor seating areas. Residents must be 62 or over to live at Wingate.
- **Waterstone in Wellesley** is a rental community with Independent Living and Assisted Living. Rent includes utilities, a meal plan, housekeeping, a pool, a gym, outdoor seating, planned social activities, movie theater and transportation to area appointments. Residents must be 62 or over to live at Waterstone.

There are two other communities in close proximity that only have Assisted Living and/or Memory Care:

- The Falls at Cordingly Dam in Newton has Assisted Living and Memory Care.
- Avita in Needham is a small Memory Care facility.

Continuing Care Retirement Communities offer another senior housing option but they usually require a large up front deposit and monthly fees.

There are two large Continuing Care Retirement Communities (CCRC) in the area.

- **North Hill in Needham** and faith based **Newbridge on the Charles in Dedham**. These both have Independent Living, Assisted Living, Memory Care and a nursing home. They require a large deposit of \$400,000+/- on top of their monthly fees (should the resident leave the community, approximately 90% of the deposit is returned). Residents must be 62 years of age or over to live at either community. Monthly fees include utilities, meals, housekeeping, social activities, a pool, a gym, planned social activities and transportation to area appointments.

Needham has approximately 10,000 households and approximately 30,000 people.

*Banker & Tradesman, July 27, 2020

Since the zoning proposal will be tailored to this specific project, it will be important to understand the quality of the organization behind the project. What is their record of violations from whatever agency it is that supervises such facilities? Moreover, how does the record of coronavirus illness and death at their other facilities compare to the record of comparable facilities?

LCB Senior Living is a Norwood-based senior housing operator and developer with roots that go back 25 years. Founded in 2011 by the former Newton Senior Living executive team, LCB Senior Living has grown to become the 3rd-largest operator of independent, assisted and memory care living communities in New England. LCB's owns and/or operates a portfolio consisting of 28 operating or under-development communities throughout MA, VT, RI, NH, CT, and PA. comprising ~2,000 residents and ~1,800 associates.

LCB communities have worked from time-to-time with local regulatory agencies on issues commensurate with the operation of a large portfolio that includes food service. However, the company has never been subject to a refusal to issue or renew a certification for operation.

COVID-19 Effects & Protocols

LCB enacted strict coronavirus measures in early March, which along with the hard work of our associate team we credit for keeping the virus' impact lower than it has been in many locations throughout the region. Of our ~2,000 residents across 25 communities in six states we have had 6% test positive. More than a dozen communities have had between zero and five cases to-date.

Of those who have tested positive, 54 residents have passed either directly from the virus or with complications from it. Many of those who passed were already in hospice care or suffering from unrelated serious illness. For comparison, there are a number of competitive communities across New England who lost 30 or more residents in a single building.

The vast majority of cases were reported in March and April, with only a handful since.

In light of the COVID-19 pandemic, LCB has greatly enhanced its practices and procedures to detect and contain any viral breakouts.

Building Sanitation — LCB has deployed advanced electrostatic disinfecting technology at all communities, which sprays a very fine anti-viral mist onto surfaces and into cracks and crevices. This agent, which is harmless to humans, kills several types of viruses (including COVID-19) on-contact at a microscopic level and is extremely effective for deep cleaning. In addition, our associate routine includes regularly sanitizing high-touch surfaces, such as counters, door knobs, chairs and other items.

Personal Protection and Hand Hygiene — Virus-prevention and containment training has been amplified. These address building cleanliness and the need for individuals to practice strict personal hygiene and protection habits, including wearing masks at all times in the community and other personal protective equipment (PPE) as needed, frequent hand-washing, taking care when outside the community, and other measures.

Managing Interactions — The fight against transmission takes place at the doorway and during personal interactions. LCB screens all associates and building visitors before they are admitted to the community; once inside, all are to wear masks. When an associate is entering the apartment of someone is showing symptoms or has tested positive, they are donning full PPE, and the resident is wearing a mask. Any resident who is showing symptoms or has tested positive remains in self-isolation within their apartment at all times until medically-cleared. All interactions throughout the course of the day are done observing proper social distancing. In situations where people must be closer, proper PPE is worn at all times.

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Exhibit 2

The Residence at Carter Mill

Projected affordable rents for Independent Living units. These are approximate and will change when HUD changes the income guidelines and when the utilities are decided. Most likely the affordable units will end up at 80% of Area Median Income (AMI).

80% AMI

Annual Income limits		Monthly Rents	
1 person	\$67,400	One bedroom	\$1,685
2 people	\$77,000	Two bedroom	\$1,925

ARTICLE 1: AMEND ZONING BY-LAW – AVERY SQUARE OVERLAY DISTRICT

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

- (a) Amend the definition of “Independent Living Apartments” in Section 1.3, Definitions, by (i) adding the words “or Avery Square Overlay District” after the words “Elder Services Zoning District”; (ii) deleting the word “only” before the words “residential uses”; and (iii) adding to the end of the definition the sentence “; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities but need not be part of a Continuing Care Retirement Community.”, so that it reads as follows:

“A building in the Elder Services Zoning District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“ASOD -- Avery Square Overlay District”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.15, Avery Square Overlay District, to read as follows:

“3.15 Avery Square Overlay District

3.15.1 Purposes of District

The purposes of the Avery Square Overlay District (“ASOD”) are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the Avery Square Overlay District shall, as set forth in this Section 3.15, be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning

district provided that such development complies with all other requirements of this Section 3.15.

3.15.2 Scope of Authority

In the Avery Square Overlay District, all requirements of the underlying district shall remain in effect except where this Section 3.15 provides an alternative to such requirements, in which case the requirements of this Section 3.15 shall prevail. If the provisions of the Avery Square Overlay District are silent on a requirement that applies in the underlying district, the requirements of the underlying district shall apply.

By filing an application for a Special Permit, site plan review or building permit under this Section 3.15, an applicant shall be deemed to accept and agree to the provisions and requirements of this Section 3.15. If an applicant elects to proceed pursuant to zoning provisions of the underlying district, the provisions and requirements of this bylaw applicable in the underlying district shall control and the provision of the Avery Square Overlay District shall not apply.

3.15.3 Use Regulations

3.15.3.1 Permitted Uses

The following uses are permitted in the Avery Square Overlay District as a matter of right provided the primary uses are the uses allowed by Section 3.15.3.2(b) and Section 3.15.3.2 (c):

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- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.
- (d) Accessory uses permitted as of right in the underlying district.

3.15.3.2 Special Permit Uses

The following uses are allowed in the Avery Square Overlay District by Special Permit issued by the Planning Board provided the primary uses are the uses allowed by Section 3.15.3.2(b) and Section 3.15.3.2 (c):

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- (a) All uses allowed by special permit in the Avery Square Business District as set forth in Section 3.2.2 of this Bylaw, except those uses permitted as a matter of right as set forth in Section 3.15.3.1, above.

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- (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities
- (c) Independent Living Apartments.
- (d) ~~BMixed-use~~ buildings with multiple uses containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

3.15.4 Dimensional Regulations

3.15.4.1 Building Height and Related Requirements

The maximum building height (including mechanical structures such as HVAC equipment) in the Avery Square Overlay District shall be 44 feet. This height limitation shall not apply to elevator shaft overruns, which shall not exceed a maximum height of 49 feet.

A building or structure which is located on property in the Avery Square Overlay District may include, but not exceed, four (4) stories, all of which may be occupied.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building on which such fourth story is located, shall be as follows: from the eastern facade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western facade of the building, zero (0) feet; from the southern facade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade is required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The total floor area of any fourth floor addition to the ~~existing~~ building may not exceed thirty-five percent (35%) of the total roof area of the ~~existing~~ building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, shall not be included in the calculation of maximum allowable floor area hereunder.

Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other height limitations nor any other limitations contained in Section 4.4.3.

3.15.4.2 Building Bulk and Other Requirements

The maximum floor area ratio in the Avery Square Overlay District shall be 1.1. Property contiguous with and in common ownership with property in the Avery Square Overlay District shall be included in the lot for purposes of calculating floor area ratio. The enclosed area of a building devoted to off-street parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed

under the regulations of the Avery Square Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk ~~such as are~~ contained in Sections 4.4.2, 4.4.7 and 4.4.9.

3.15.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in Section 4.4.6 shall apply in the Avery Square Overlay District.

(a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:

(1) For Independent Living Apartments, there shall be one space per Apartment.

(2) For Assisted Living units and Alzheimer's/Memory Loss units, the parking requirement shall be one space for every two beds, plus one space for each two employees on the largest shift.

(b) Notwithstanding anything to the contrary elsewhere in this Bylaw, including but not limited to Section 4.4.8.4, in the event that land located in the Single Residence B Zoning District

(1) is adjacent to the Avery Square Overlay District;

(2) is in common ownership with adjacent land located in the Avery Square Overlay District; and

(3) prior to approval of this Section 3.15, was improved as a parking area associated with a building located in the Avery Square Overlay District;

then, provided that said land extends into the Single residence B Zoning District not more than one hundred (100') feet from the boundary line between the Single Residence B Zoning District and the Avery Square Business District, said land may, as a matter of right, be used as a parking area accessory to uses permitted in the Avery Square Overlay District by right or by special permit.

3.15.6 Affordable Housing

Any ~~mixed-use~~ building with ten or more Independent Living Apartments shall include affordable housing units as defined in Section 1.3 of this By-Law, as may be modified in this Section 3.15.6. The following requirements shall apply to a development that includes ten or more Independent Living Apartments~~affordable units~~:

(a) For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable

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units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.

(b) If the Applicant provides at least one-half of the affordable Independent Living Apartments required herein for households with incomes at or below 50% of area median income, the remaining affordable Independent Living Apartments may be rented to households with incomes up to 100% of area median income even if the latter units are therefore not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.

~~(c) For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.~~

Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit-specific real estate-related amenities and are excluded from such comparability requirements.

(d) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.

(e) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.”

(d) Amend Section 4.4.4 Front Setback, by adding the following paragraph after the fourth paragraph of that section:

“In the Avery Square Overlay District, the front setback, if any, shall be kept open and landscaped with grass, plants, and other non-paving materials such as mulch, and shall be unpaved except for patios, walks, and driveways as defined in section 4.4.5. Walls (including walls serving in part as retaining walls) no higher than 36 inches above the grade of the patios, as well as fencing and privacy screening, along the front and side edges of the patios, shall be allowed in the Avery Square Overlay District.”

- (e) Amend Section 4.4.6 Enclosed Parking, by adding the phrase “for each square foot” before the words “of parking space (excluding driveways and aisles)” on the fourth line of the first paragraph of that section so that it reads as follows:

“Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setback as provided herein. The lot coverage of the building may be increased up to 2 ½ % points above the maximum allowed percentage, by one square foot for each square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself.”

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

In the Center Business District, enclosed parking shall be entirely below the grade of adjoining streets measured at their respective center lines. Access to enclosed parking shall be from the rear of the building. If provided, enclosed parking shall not be visible from the street. The placement of parking underground shall not raise the first non-parking floor of a structure above grade. Municipal parking facilities in the Center Business District shall be exempt from this provision.”

- (b) Amend Section 7.6.1 Special Permit Granting Authority, by adding the number “3.15” after the number “3.14” on the second line of that Section so that it reads as follows:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 3.15, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this Bylaw. In all other cases the Board of Appeals shall act as the Special Permit Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals, except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

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

Article Explanation: Articles 1 and 2 are proposed Zoning Bylaw amendments that are intended to facilitate the redevelopment of the currently vacant Carter Mill Building at the corner of Highland Avenue and West Street. The Carter factory and mill was established at that site beginning around 1865, and, for the next 125 years until approximately 1990, the factory and mill operated at that location. The building has become a well-known landmark in Needham.

In 1993, the building was approved for the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home. In 1995, a small portion of the building was also approved for medical office use. In

2017, Avery Crossing and Avery Manor were closed, as well as the medical offices, and the building has remained vacant since that time. The proposed Bylaw amendments will allow the empty Carter Mill building to be upgraded and renovated to create a 155-apartment senior housing community, including 72 age restricted Independent Living apartments, 55 Assisted Living apartments, and 28 Memory Care units.

Article 1 and 2 Description

Article 1 proposes to create the Avery Square Overlay District (“ASOD”), and lays out the regulatory framework for the new overlay district, while Article 2 describes its geographic boundaries. The boundaries of the ASOD match the boundaries of property on which the former Carter Mill building sits, except at the southern end of the property, where the overlay district boundary matches the boundary of the Avery Square Business District. The overlay district’s key provisions are summarized below.

Geographic Designation of the District

The ASOD is bounded on the north by West Street; on the east by Highland Avenue; on the south by the existing zoning boundary line between the Avery Square Business District and the adjacent SRB district, which runs through the existing parking area south of the existing building; and on the west by the MBTA commuter railroad right-of-way.

Purpose of the District

The purposes of the ASOD are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the proposed Avery Square Overlay District would be permitted to exceed certain density and dimensional requirements that normally apply in the underlying Avery Square Business District, provided that such development complies with all other requirements of the proposed Warrant Article.

Definitions

The proposed Warrant Article would amend the definition of “Independent Living Apartments” in Section 1.3 of the Bylaw so that within the ASOD, Independent Living Apartments may be located in the same building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.

Permitted Uses

The proposed ASOD Warrant Article lists the uses that are allowed as-of-right or by special permit. The use schedule largely mirrors that of the underlying Avery Square Business District with the following additional uses allowed by special permit: Assisted Living and/or Alzheimer’s/Memory Loss Facilities; Independent Living Apartments; and Mixed-use buildings containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

The proposed ASOD warrant Article specifies that the Planning Board will be the Special Permit Granting Authority for all such special permits.

Allowable Building Height, Number of Stories, and Occupancy

The proposed maximum allowable building height (including mechanical structures such as HVAC equipment) in the ASOD is 44 feet. This height limitation does not apply to elevator shaft overruns, which cannot exceed a maximum height of 49 feet. The building may include, but not exceed, four (4) stories, all of which may be occupied. At present, the building includes three stories, all of which were occupied while the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home were in operation.

Restrictions on the 4th Story

Under the proposed ASOD Warrant Article, the total floor area of any fourth-floor addition to the existing building may not exceed thirty-five percent (35%) of the total roof area of the existing building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, is not included in the calculation of maximum allowable floor area.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building, are proposed as follows: from the eastern façade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western façade of the building, zero (0) feet; from the southern façade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade would be required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The minimum setbacks and limit on the percentage of the existing footprint of the building that can be used for a fourth story will reduce the visual impact of the fourth story.

Building Bulk and Other Requirements

The proposed maximum floor area ratio ("FAR") in the ASOD is 1.1. The property at the southern end of the parcel, in the adjacent SRB district, that is contiguous with and in common ownership with property in the Avery Square Overlay District, will be included in the lot for purposes of calculating FAR. In the proposed overlay district, the FAR calculation excludes garage parking within the building.

Off-Street Parking

The minimum number of off-street parking spaces specified in Section 5.1.2 of the Bylaw will apply except that for Independent Living Apartments, there will be one parking space per Apartment; and for Assisted Living units and Alzheimer's/Memory Loss units, the requirement will be one parking space for every two beds, plus one parking space for every two employees on the largest shift.

At present, there is a portion of the southern parking area that extends into the SRB district adjacent to the boundary of the ASOD (and underlying ASB District). Parking in this area will be continued and will be allowed as-of-right, provided that the parking area does not extend any further into the SRB district than is presently the case.

Affordable Housing

In the proposed ASOD Warrant Article, twelve and one-half percent (12.5%) of the Independent Living Apartments must be affordable units. Fractions are rounded up to the nearest whole number. There is no affordable housing requirement for Assisted Living and Alzheimer's/Memory Loss Facilities.

Affordable units will be dispersed within the building and not concentrated in one area or on one floor. They will generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the building's market-rate units. The selection of eligible homebuyers or renters for the affordable units will be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the building. The affordable units will also be subject to an affordable housing restriction as defined in Section 1.3 of the Town By-Laws.

Other Proposed Changes to the Bylaw

In order to facilitate the proposed renovation of the building, the proposed Warrant Article would amend the definition of "Front Setback" elsewhere in the Bylaw to allow ground-level patios (of less than 100 square feet each), and walls no higher than 36 inches around those patios, serving some of the ground-floor units that will face Highland Avenue.

The proposed Warrant Article also would make a small change to the Bylaw Section 4.4.6, Enclosed Parking, to correct a wording error, but not change its meaning and effect.

ARTICLE 1: AMEND ZONING BY-LAW – AVERY SQUARE OVERLAY DISTRICT

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

- (a) Amend the definition of “Independent Living Apartments” in Section 1.3, Definitions, by (i) adding the words “or Avery Square Overlay District” after the words “Elder Services Zoning District”; (ii) deleting the word “only” before the words “residential uses”; and (iii) adding to the end of the definition the sentence “; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities but need not be part of a Continuing Care Retirement Community.”, so that it reads as follows:

“A building in the Elder Services Zoning District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“ASOD -- Avery Square Overlay District”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.15, Avery Square Overlay District, to read as follows:

“3.15 Avery Square Overlay District

3.15.1 Purposes of District

The purposes of the Avery Square Overlay District (“ASOD”) are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the Avery Square Overlay District shall, as set forth in this Section 3.15, be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning

district provided that such development complies with all other requirements of this Section 3.15.

3.15.2 Scope of Authority

In the Avery Square Overlay District, all requirements of the underlying district shall remain in effect except where this Section 3.15 provides an alternative to such requirements, in which case the requirements of this Section 3.15 shall prevail. If the provisions of the Avery Square Overlay District are silent on a requirement that applies in the underlying district, the requirements of the underlying district shall apply.

By filing an application for a Special Permit, site plan review or building permit under this Section 3.15, an applicant shall be deemed to accept and agree to the provisions and requirements of this Section 3.15. If an applicant elects to proceed pursuant to zoning provisions of the underlying district, the provisions and requirements of this bylaw applicable in the underlying district shall control and the provision of the Avery Square Overlay District shall not apply.

3.15.3 Use Regulations

3.15.3.1 Permitted Uses

The following uses are permitted in the Avery Square Overlay District as a matter of right provided the primary uses are the uses allowed by Section 3.15.3.2(b) and Section 3.15.3.2 (c):

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.
- (d) Accessory uses permitted as of right in the underlying district.

3.15.3.2 Special Permit Uses

The following uses are allowed in the Avery Square Overlay District by Special Permit issued by the Planning Board provided the primary uses are the uses allowed by Section 3.15.3.2(b) and Section 3.15.3.2 (c):

- (a) All uses allowed by special permit in the Avery Square Business District as set forth in Section 3.2.2 of this Bylaw, except those uses permitted as a matter of right as set forth in Section 3.15.3.1, above.
- (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities

(c) Independent Living Apartments.

(d) Buildings with multiple uses containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

3.15.4 Dimensional Regulations

3.15.4.1 Building Height and Related Requirements

The maximum building height (including mechanical structures such as HVAC equipment) in the Avery Square Overlay District shall be 44 feet. This height limitation shall not apply to elevator shaft overruns, which shall not exceed a maximum height of 49 feet.

A building or structure which is located on property in the Avery Square Overlay District may include, but not exceed, four (4) stories, all of which may be occupied.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building on which such fourth story is located, shall be as follows: from the eastern facade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western facade of the building, zero (0) feet; from the southern facade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade is required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The total floor area of any fourth floor addition to the building may not exceed thirty-five percent (35%) of the total roof area of the building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, shall not be included in the calculation of maximum allowable floor area hereunder.

Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other height limitations nor any other limitations contained in Section 4.4.3.

3.15.4.2 Building Bulk and Other Requirements

The maximum floor area ratio in the Avery Square Overlay District shall be 1.1. Property contiguous with and in common ownership with property in the Avery Square Overlay District shall be included in the lot for purposes of calculating floor area ratio. The enclosed area of a building devoted to off-street parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk contained in Sections 4.4.2, 4.4.7 and 4.4.9.

3.15.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in Section 4.4.6 shall apply in the Avery Square Overlay District.

(a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:

(1) For Independent Living Apartments, there shall be one space per Apartment.

(2) For Assisted Living units and Alzheimer's/Memory Loss units, the parking requirement shall be one space for every two beds, plus one space for each two employees on the largest shift.

(b) Notwithstanding anything to the contrary elsewhere in this Bylaw, including but not limited to Section 4.4.8.4, in the event that land located in the Single Residence B Zoning District

(1) is adjacent to the Avery Square Overlay District;

(2) is in common ownership with adjacent land located in the Avery Square Overlay District; and

(3) prior to approval of this Section 3.15, was improved as a parking area associated with a building located in the Avery Square Overlay District;

then, provided that said land extends into the Single residence B Zoning District not more than one hundred (100') feet from the boundary line between the Single Residence B Zoning District and the Avery Square Business District, said land may, as a matter of right, be used as a parking area accessory to uses permitted in the Avery Square Overlay District by right or by special permit.

3.15.6 Affordable Housing

Any building with ten or more Independent Living Apartments shall include affordable housing units as defined in Section 1.3 of this By-Law, as may be modified in this Section 3.15.6. The following requirements shall apply to a development that includes ten or more Independent Living Apartments:

(a) For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.

- (b) If the Applicant provides at least one-half of the affordable Independent Living Apartments required herein for households with incomes at or below 50% of area median income, the remaining affordable Independent Living Apartments may be rented to households with incomes up to 100% of area median income even if the latter units are therefore not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.
- (c) Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit-specific real estate-related amenities and are excluded from such comparability requirements.
- (d) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.
- (e) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction.”
- (d) Amend Section 4.4.4 Front Setback, by adding the following paragraph after the fourth paragraph of that section:

“In the Avery Square Overlay District, the front setback, if any, shall be kept open and landscaped with grass, plants, and other non-paving materials such as mulch, and shall be unpaved except for patios, walks, and driveways as defined in section 4.4.5. Walls (including walls serving in part as retaining walls) no higher than 36 inches above the grade of the patios, as well as fencing and privacy screening, along the front and side edges of the patios, shall be allowed in the Avery Square Overlay District.”
- (e) Amend Section 4.4.6 Enclosed Parking, by adding the phrase “for each square foot” before the words “of parking space (excluding driveways and aisles)” on the fourth line of the first paragraph of that section so that it reads as follows:

“Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setback as provided herein. The lot coverage of the building may be increased up to 2 ½ % points above the maximum allowed percentage, by one square foot for each square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself.”

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

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- (b) Amend Section 7.6.1 Special Permit Granting Authority, by adding the number “3.15” after the number “3.14” on the second line of that Section so that it reads as follows:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 3.15, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this Bylaw. In all other cases the Board of Appeals shall act as the Special Permit Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals, except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.”

Or take any other action relative thereto.

INSERTED BY: Planning Board

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

Article Explanation: Articles 1 and 2 are proposed Zoning Bylaw amendments that are intended to facilitate the redevelopment of the currently vacant Carter Mill Building at the corner of Highland Avenue and West Street. The Carter factory and mill was established at that site beginning around 1865, and, for the next 125 years until approximately 1990, the factory and mill operated at that location. The building has become a well-known landmark in Needham.

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Article 1 proposes to create the Avery Square Overlay District (“ASOD”), and lays out the regulatory framework for the new overlay district, while Article 2 describes its geographic boundaries. The boundaries of the ASOD match the boundaries of property on which the former Carter Mill building sits, except at the southern end of the property, where the overlay district boundary matches the boundary of the Avery Square Business District. The overlay district’s key provisions are summarized below.

Geographic Designation of the District

The ASOD is bounded on the north by West Street; on the east by Highland Avenue; on the south by the existing zoning boundary line between the Avery Square Business District and the adjacent SRB district, which runs through the existing parking area south of the existing building; and on the west by the MBTA commuter railroad right-of-way.

Purpose of the District

The purposes of the ASOD are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer's/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the proposed Avery Square Overlay District would be permitted to exceed certain density and dimensional requirements that normally apply in the underlying Avery Square Business District, provided that such development complies with all other requirements of the proposed Warrant Article.

Definitions

The proposed Warrant Article would amend the definition of "Independent Living Apartments" in Section 1.3 of the Bylaw so that within the ASOD, Independent Living Apartments may be located in the same building that also houses Assisted Living and/or Alzheimer's/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.

Permitted Uses

The proposed ASOD Warrant Article lists the uses that are allowed as-of-right or by special permit. The use schedule largely mirrors that of the underlying Avery Square Business District with the following additional uses allowed by special permit: Assisted Living and/or Alzheimer's/Memory Loss Facilities; Independent Living Apartments; and Mixed-use buildings containing, as primary uses, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

The proposed ASOD warrant Article specifies that the Planning Board will be the Special Permit Granting Authority for all such special permits.

Allowable Building Height, Number of Stories, and Occupancy

The proposed maximum allowable building height (including mechanical structures such as HVAC equipment) in the ASOD is 44 feet. This height limitation does not apply to elevator shaft overruns, which cannot exceed a maximum height of 49 feet. The building may include, but not exceed, four (4) stories, all of which may be occupied. At present, the building includes three stories, all of which were occupied while the Avery Crossing Assisted Living Facility and Avery Manor Nursing Home were in operation.

Restrictions on the 4th Story

Under the proposed ASOD Warrant Article, the total floor area of any fourth-floor addition to the existing building may not exceed thirty-five percent (35%) of the total roof area of the existing building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, is not included in the calculation of maximum allowable floor area.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building, are proposed as follows: from the eastern facade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western facade of the building, zero (0) feet; from the southern facade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade would be required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The minimum setbacks and limit on the percentage of the existing footprint of the building that can be used for a fourth story will reduce the visual impact of the fourth story.

Building Bulk and Other Requirements

The proposed maximum floor area ratio ("FAR") in the ASOD is 1.1. The property at the southern end of the parcel, in the adjacent SRB district, that is contiguous with and in common ownership with property in the Avery Square Overlay District, will be included in the lot for purposes of calculating FAR. In the proposed overlay district, the FAR calculation excludes garage parking within the building.

Off-Street Parking

The minimum number of off-street parking spaces specified in Section 5.1.2 of the Bylaw will apply except that for Independent Living Apartments, there will be one parking space per Apartment; and for Assisted Living units and Alzheimer's/Memory Loss units, the requirement will be one parking space for every two beds, plus one parking space for every two employees on the largest shift.

At present, there is a portion of the southern parking area that extends into the SRB district adjacent to the boundary of the ASOD (and underlying ASB District). Parking in this area will be continued and will be allowed as-of-right, provided that the parking area does not extend any further into the SRB district than is presently the case.

Affordable Housing

In the proposed ASOD Warrant Article, twelve and one-half percent (12.5%) of the Independent Living Apartments must be affordable units. Fractions are rounded up to the nearest whole number. There is no affordable housing requirement for Assisted Living and Alzheimer's/Memory Loss Facilities.

Affordable units will be dispersed within the building and not concentrated in one area or on one floor. They will generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the building's market-rate units. The selection of eligible homebuyers or renters for the affordable units will be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the building. The affordable units will also be subject to an affordable housing restriction as defined in Section 1.3 of the Town By-Laws.

Other Proposed Changes to the Bylaw

In order to facilitate the proposed renovation of the building, the proposed Warrant Article would amend the definition of "Front Setback" elsewhere in the Bylaw to allow ground-level patios (of less than 100 square feet each), and walls no higher than 36 inches around those patios, serving some of the ground-floor units that will face Highland Avenue.

The proposed Warrant Article also would make a small change to the Bylaw Section 4.4.6, Enclosed Parking, to correct a wording error, but not change its meaning and effect.

**ARTICLE 2: AMEND ZONING BY-LAW – MAP CHANGE TO AVERY SQUARE
OVERLAY DISTRICT**

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

- (a) Place in the Avery Square Overlay District all that land described as follows, and superimposing that District over the existing Avery Square Business District:

Beginning at the point of intersection of the westerly sideline of Highland Avenue and the northerly sideline of what was formerly known as Hildreth Place (said former Hildreth Place as shown on Needham Town Assessors Map 63); thence running northerly by the westerly sideline of Highland Avenue to the point of curvature of a curve having a radius of 20 feet and an arc length of 29.27 feet; said curve being a property rounding of the intersection of the westerly sideline of Highland Avenue and the southerly sideline of West Street; thence running northerly, northwesterly, and westerly by said curve to the point of tangency of said curve located on the southerly sideline of West Street; thence running westerly by the southerly sideline of West Street to the point of intersection of the southerly sideline of West Street and the easterly right of way line of MBTA property; thence running southerly by said easterly right of way line of MBTA property to the intersection of the easterly right of way line of MBTA property and the northerly sideline of what was formerly known as Hildreth Place; thence running easterly by the northern boundary of what was formerly known as Hildreth Place, to the point of beginning.

The land is also shown on Needham Town Assessors Map 63, Parcel 37, but excluding any land to the south of the northerly sideline of what was formerly known as Hildreth Place.

Or take any other action relative thereto.

INSERTED BY: Planning Board

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

Article Explanation: This article describes the geographical boundaries of the new Avery Square Overlay District, which is bounded on the north by West Street; on the east by Highland Avenue; on the south by the northern and western boundaries of the property located at 1049 Highland Avenue and the northern boundary of the property located at 95 Dana Place; and on the west by the MBTA commuter railroad right-of-way.



TOWN OF NEEDHAM
MASSACHUSETTS

RECEIVED TOWN OF
NEEDHAM, MA 02455
19 AUG 19 PM 2:53

PLANNING BOARD

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

APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL

Submit three (3) copies. One copy to be filed with the Planning Board and one with the Town Clerk as required by Section 81-P, Chapter 41 of the General Laws. This application must be accompanied by the **Original Tracing** and **three (3) copies of the plan**.

To the Planning Board:

The undersigned, believing that the accompanying plan of land in the Town of Needham does not constitute a subdivision within the meaning of the Subdivision Control Law, for the reasons outlined below, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

1. Name of Applicant 770 CHESTNUT STREET LLC
Address 130 PROSPECT STREET CAMBRIDGE MA.
2. Name of Engineer or Surveyor WHITMAN & BINGHAM
Address 510 MECHANIC STREET, LEXINGTON MA. 01453
3. Deed of property recorded in NORFOLK County Registry,
Book 28760, Page 175
4. Location and description of property 770 CHESTNUT STREET
NEEDHAM MA.
5. Reasons approval is not required (check as applicable):
 - a) ☒ Every lot shown has the area and frontage required by the Zoning By-Law on a way, as defined by Section 81-L, Chapter 41 of the General Laws.
 - b) Land designated _____ shall not be used as separate building lot(s) but only together with adjacent lots having the required area and frontage.
 - c) Lot(s) having less than required frontage or area resulted from a taking for public purpose or have been recorded prior to 3/26/1925, no land is available to make up the deficiency and the frontage and land area of such lots are not being reduced by the plan.
 - d) _____

(If the applicant is not the owner, written authorization to act as agent must be attached)

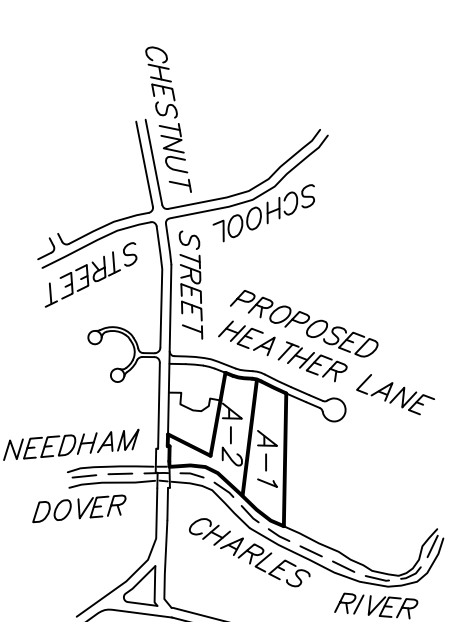
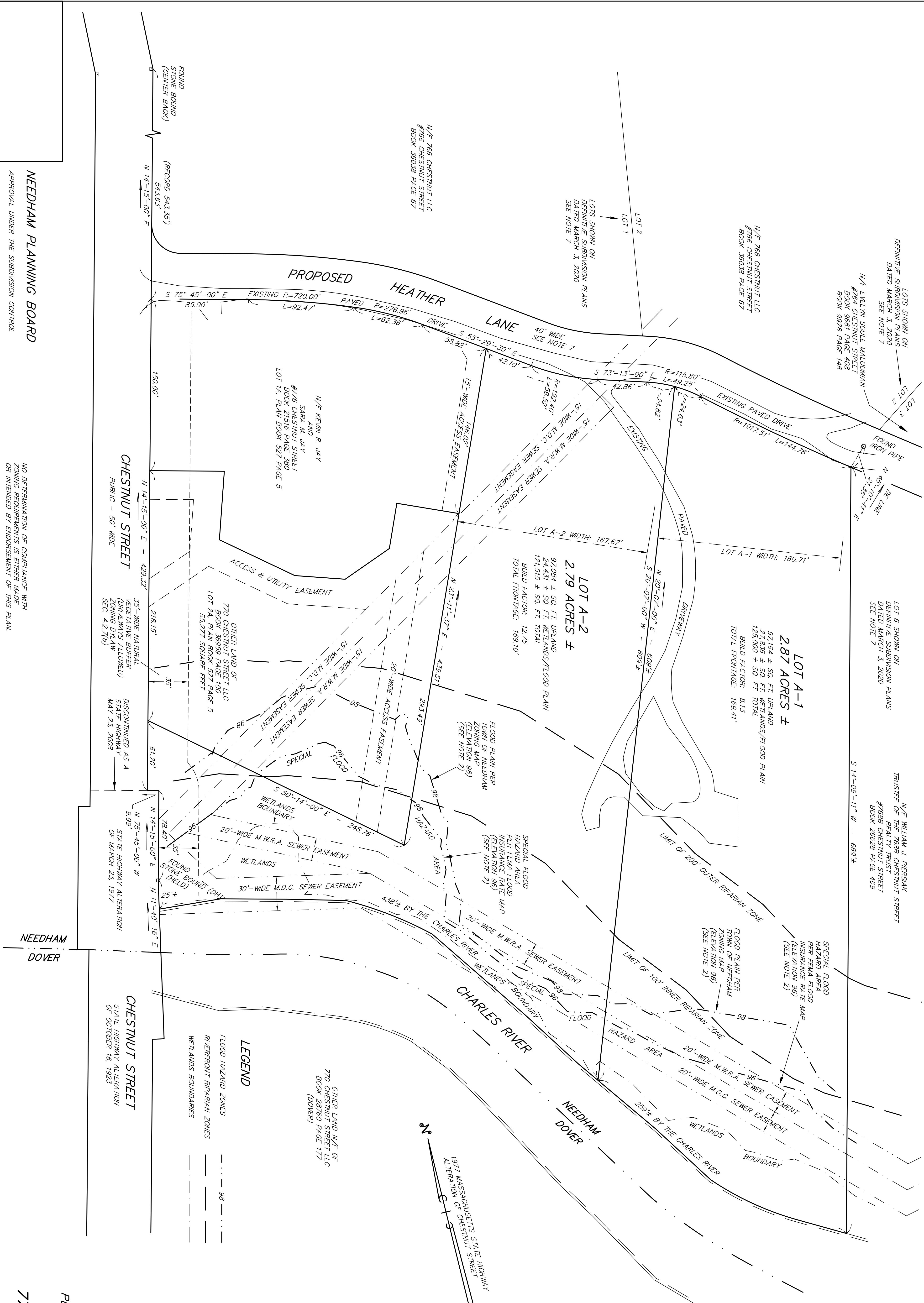
Signature of Applicant [Signature]

Address 130 Prospect St Cambridge MA 02139

By 770 Chestnut Street LLC. (agent)

Application accepted this _____ day of _____ 20____
as duly submitted under the rules and regulations of the Planning Board.

By _____



NOTES:

1. THE LAND SHOWN HEREON IS GRAPHICALLY SITUATED IN THE RURAL RESIDENCE-CONSERVATION ZONING DISTRICT, WITH THE FOLLOWING MINIMUM DIMENSIONAL REQUIREMENTS:

MINIMUM LOT AREA 43,560 SQ. FT. (1.00 ACRE)

MINIMUM LOT FRONTAGE 150 FEET

MINIMUM LOT DEPTH 150 FEET

MINIMUM FRONT SETBACK 50 FEET

MINIMUM SIDE SETBACK 25 FEET

MINIMUM REAR SETBACK 25 FEET

MAXIMUM LOT COVERAGE 15 PERCENT

MAXIMUM HEIGHT 35 FEET/2.5 STORES

2. A PORTION OF THE LAND SHOWN HEREON IS GRAPHICALLY SITUATED IN A SPECIAL FLOOD HAZARD AREA (1 PERCENT ANNUAL CHANCE OF FLOOD) PER FLOOD INSURANCE RATE MAP 2502(CO)03B, DATED JULY 17, 2012. THE CURRENT FLOOD INSURANCE RATE MAP SHOWS THE FLOOD ELEVATION TO BE 98 FEET. BOTH FLOOD HAZARD ZONE BOUNDARIES ARE SHOWN HEREON, BASED ON DIRECT MEASUREMENT OF GROUND ELEVATIONS.

3. DEED REFERENCE: BOOK 36959 PAGE 100

770 CHESTNUT STREET LLC

THE REFERENCED DEED INCLUDES:

PARCEL 1 (NEEDHAM) - LOT A (LESS EXCEPTION) SHOWN ON PLAN BOOK 76 PLAN NO. 3664;

PARCEL 2 (DOVER) - LOT D SHOWN ON PLAN BOOK 2639 PAGE 13 (NOT INCLUDED IN THIS SURVEY); AND

PARCEL 3 (NEEDHAM) - LOT 2A SHOWN ON PLAN BOOK 527 PAGE 5.

4. PLAN REFERENCES:

PLAN BOOK 76 NO. 3664 (LOCUS)

PLAN BOOK 527 PAGE 5 (LOCUS)

PLAN BOOK 1575 PAGE 91 (HIGHWAY)

PLAN BOOK 1577 PAGE 94 (HIGHWAY)

PLAN BOOK 259 PAGE 201 (HIGHWAY)

PLAN BOOK 584 PAGE 53 (HIGHWAY)

PLAN BOOK 1823 PAGE 212 (ABUTTER)

PLAN BOOK 2297 PAGE 501 (NO. 589) (ABUTTER)

PLAN BOOK 419 PAGE 628 (ABUTTER)

PLAN BOOK 199 PAGE 1094 (SEWER)

PLAN BOOK 378 PAGE 214 (SEWER)

UNRECORDED PLAN OF HEATHER LANE SUBDIVISION

5. OWNER:

770 CHESTNUT STREET LLC

130 PROSPECT STREET

CAMBRIDGE, MA 02139

6. ADDRESS OF SUBJECT PREMISES:

#770 CHESTNUT STREET

7. PROPOSED HEATHER LANE AND ADJOINING BUILDING LOTS 1, 2, 3 AND 6 ARE ADOPTED HEREON FROM "DEFINITIVE SUBDIVISION PLANS FOR HEATHER LANE - 764, 766, 768-768A, & 768B CHESTNUT STREET, NEEDHAM, MA", DATED MARCH 3, 2020, BY KELLY ENGINEERING GROUP, INC. PROPOSED LOTS A-1 AND A2, SHOWN HEREON, HAVE FRONTAGE ON PROPOSED HEATHER LANE AND ADJOINING LOT 3, AND ARE NOT SHOWN WITHIN THE PROPOSED LAYOUT OF HEATHER LANE IS NOT SHOWN HEREON.



PLAN OF LAND IN NEEDHAM, MASS.

OWNED BY

770 CHESTNUT STREET LLC

AUGUST 5, 2020

WHITMAN & BINGHAM ASSOCIATES, LLC

REGISTERED PROFESSIONAL ENGINEERS & LAND SURVEYORS

510 MECHANIC STREET - LEOMINSTER, MASSACHUSETTS 01453

21 CENTRAL SQUARE, SUITE 2 - CHELMSFORD, MASSACHUSETTS 01824

NEEDHAM PLANNING BOARD

APPROVAL UNDER THE SUBDIVISION CONTROL

DATE: _____

LAW NOT REQUIRED

NO DETERMINATION OF COMPLIANCE WITH ZONING REQUIREMENTS IS EITHER MADE OR INTENDED BY ENDORSEMENT OF THIS PLAN.

I CERTIFY THAT THIS PLAN CONFORMS TO REGULATIONS OF REGISTERS OF DEEDS

Hi Lee,
That is correct, sorry for the confusion.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



From: Lee Newman <LNewman@needhamma.gov>
Sent: Friday, August 21, 2020 8:55 AM
To: Dennis Condon <DCondon@needhamma.gov>; Anthony DelGaizo <ADelgaizo@needhamma.gov>
Cc: Thomas Ryder <tryder@needhamma.gov>
Subject: RE: ANR Plan: 770 Chestnut Street

Dennis,

I assume you mean that the recently approved subdivision plan if implemented meets your needs. But that the private roadway in it's present form does not. Please confirm.

Lee

From: Dennis Condon <DCondon@needhamma.gov>
Sent: Thursday, August 20, 2020 2:42 PM
To: Anthony DelGaizo <ADelgaizo@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Cc: Thomas Ryder <tryder@needhamma.gov>
Subject: RE: ANR Plan: 770 Chestnut Street

Unless Tony sees something different, I believe this meets our needs and I will leave up to others to determine on the ANR/right of way issue.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



From: Anthony DelGaizo <ADelgaizo@needhamma.gov>
Sent: Thursday, August 20, 2020 12:41 PM
To: Lee Newman <LNewman@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>
Cc: Thomas Ryder <tryder@needhamma.gov>
Subject: RE: ANR Plan: 770 Chestnut Street

Lee

An ANR Plan cannot be proposed off of a Proposed Right of Way. The right of way has to be established first.

Anthony L. Del Gaizo, PE
Town Engineer

Needham Department of Public Works
Public Services Administration Building
500 Dedham Avenue
Needham, MA 02492

Phone: 781-455-7550
Email: adelgaizo@needhamma.gov

From: Lee Newman <LNewman@needhamma.gov>
Sent: Thursday, August 20, 2020 12:16 PM

To: Anthony DelGaizo <ADelgaizo@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>
Cc: Thomas Ryder <tryder@needhamma.gov>
Subject: ANR Plan: 770 Chestnut Street

Tony and Dennis,

I have attached to this email a copy of an ANR Plan for 770 Chestnut Street which was filed with the Planning Board yesterday and which will be on the Board's agenda for Wednesday, August 26, 2020. I would like for you to review the plan and provide the Board with your written comments for this meeting.

Thanks for your input,

Lee