# NEEDHAM PLANNING BOARD MINUTES

June 16, 2008

The regular meeting of the Planning Board, held in the Performance Center of the Eliot School, was called to order by Martin Jacobs, Chairman, on Monday June 16, 2008 at 7:30 p.m. with Messrs. Eisenhut, Handel, McKnight and Ruth as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

**ANR Plan: North Shore Construction & Development Inc., 309 Hunnewell St and Parcels 10B and 10C Andrea Circle**

Ron Lopez of North Shore Construction & Development, Inc. and his Attorney Daniel J. Harrington, Esq explained the content of the ANR Plan to the Board. Ms. Newman noted that the non-conformity will not be affected because the abutting parcel that contains the non-conformity will be unaffected. The applicant noted that the existing lot line will be eliminated. Ron Ruth asked if that would be a problem because then there would be two ANR applicants. The applicant noted that it is joint petition.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to sign the ANR Plan.

**Review and Approval of Major Project Site Plan Special Permit Decision No. 2008-03: Cabot, Cabot & Forbes of New England, Inc., 125 Summer Street, Suite 1800, Boston, MA 02210, Petitioner (Property located at 360 First Avenue, 410 First Avenue, and 66B Street, Needham, MA)**

The Board invited Attorney Roy Cramer to make his comments on the Decision of Major Project Site Plan Special Permit Decision No. 2008-03: Cabot, Cabot & Forbes of New England, Inc. His first comment was in Section 3.12. He did not think that the date of June 1, 2009 was reasonable. After some discussion, the solution that was agreed upon was that the wording would be "The Petitioner shall prepare a full set of Plans, Specifications, and Estimates in accordance with Department of Public Works requirements for the upgrade of the Reservoir B pump station so that all sewage from the site may be diverted to Reservoir from its currently proposed connection to the Kendrick Street Pump Station after its reconstruction. The Petitioner shall begin work on the required Plans, Specifications, and Estimates when the building permit has been issued for the first building. The Plans, Specifications, and Estimates shall be completed no later than six months from the date of issuance of the building permit for Building 1." The same solution would be used to fix the same situation on pages 17 and 18.

Mr. Cramer alerted the Board to another issue, in Section 4.6. There was a discussion about the fourth line of this paragraph that referred to Phase I being "substantially completed prior to June 16, 2010." After discussion, everyone then agreed that the next sentence shall be change to read as follows (changed wording is underlined): "The Petitioner shall <u>thereafter</u> be able to procure a Building Permit for Phase II and Phase III prior to June 16, <u>2016</u> without any need for an extension of this Approval by the Board, <u>and if so procured,</u> Phase II and Phase III shall be substantially completed within <u>twenty-four</u> months of the issuance of the Building Permit for that phase of the Project."

Mr. Cramer next raised a concern about Sections 1.5, 1.6 and 1.7. He wants to be able to take out the clause that would not enable them to change the floor plans without the Board's permission if the authorized use was changing. He argued that it shouldn't matter to the Board. Mr. Eisenhut said that if they changed it as Mr. Cramer suggested, he would decide if the new use is consistent with zoning, rather than the Board. Mr. Cramer stated that they would have to get building permit and the Planning Board would get a copy. He wants to be able to have other as-of-right uses go in, for example a non-retail bank. Mr. Handel inquired if there would be a different parking requirement for that. Mr. Cramer responded that it would be. Mr. Handel then asked if the traffic generation by those uses would be different. Ms. Newman noted that she limited the permit to what was asked for by the Petitioner and what the traffic analysis was based on. Mr. Ruth said that he did not see a problem with non-retail bank use. Mr. Cramer suggested that in Section 3.3, where the allowed uses are stated, that "light non-nuisance manufacturing and non-retail banks" be added, and in that case he would be fine with Sections 1.5, 1.6 and 1.7 as they are. The Board agreed.

Mr. Cramer next directed the Board to Sections 3.2 and 3.7, where the word "exactly" troubled him. Mr. Eisenthut reminded him that if the Plan should change, a Diminimus Change is required. Mr. Cramer noted some of the inconveniences about doing that for minor changes. After discussion, the Board agreed to remove the word "exactly" from Sections 3.2 and 3.7.

Mr. Cramer then noted in Section 3.15 that he wants to add the words "where applicable" to the end of the sentence, because there is a utility easement at the back of the property that they may opt to use. Mr. Jacobs suggested adding "or from any off-site utility easement, whichever is applicable." Everyone agreed.

Mr. Cramer then suggested that in Section 3.30, the words "on-site" be removed and instead to add at the end the phrase "on-site improvements will be constructed in accordance with the details in the plans." Mr. Handel asked Mr. Cramer what the downside of this would be. Mr. Cramer responded that the plans have been carefully prepared and also reviewed by the Town Engineer, and if something has not been dealt with, they don't want to be penalized for it. Mr. Handel asked who the professional is who certifies that it is consistent with the Town of Needham Standards. Mr. Newman replied that it is Anthony Del Gaizo, the Town Engineer. Mr. Handel then asked if there was a problem, what the remedy would be. Ms. Newman responded that if the problem is serious enough, it would have to be fixed, even if Mr. Del Gaizo missed it. Mr. Handel asked his fellow Board members if they see a compelling reason to change the policy of how they have done this in the past. Mr. Jacobs said he has not heard a compelling reason. Mr. Eisenhut pointed out that even though it may seem unfair, the Board's job is to protect the Town. Mr. Jacobs added that the rules are published and available for the public.

Mr. Cramer brought up the shuttle service mentioned in Section 3.9. Through the 128 Building Council, the shuttle is paid for, and his client intends to join. He was concerned that if the shuttle service disappeared, he doesn't want to have to provide the entire shuttle service. Mr. Handel noted that it is a standard provision in the area, so they wouldn't be alone in it. Mr. Cramer noted that his client is "buying into the existing infrastructure." Mr. Jacobs asked what else they can do to change it without removing the entire concept." Ms. Newman reiterated that it is a pattern in all permits in the area. Mr. Eisenhut added that all the clauses are subject to reasonableness and good faith.

Mr. Ruth had several comments on the Draft Decision. First, in Section 1.1, "apply" should actually be "comply." In section 1.22, the number "1.1" should be added. Mr. Ruth then inquired about the Traffic Improvement fee, and Ms. Newman noted that the Town Manager and the Finance Director are both okay with it as is. Mr. Ruth noted that Section 2.1 (a), should read "to include" instead of "which includes." Mr. Ruth then noted that there was discussion about the project trying to obtain LEED Certification, and one way that they could get points for the certification would be reserve several parking spaces for carpools. He asked Ms. Newman, if they were to do that, should it be specified in the Decision. Ms. Newman answered that it would not be in the Decision and would be part of their Transportation Demand Management Plan.

Ms. McKnight noted that on Page 6, Section, 1.13, the last sentence is confusing and that it should revised. In Section 3.19, Ms. McKnight suggested the words "or pay" be added.

The Board members had no further comment. Ms. Newman stated that she wanted to make sure that the Board understood one potential issue which was more than one use on a lot. Mr. Eisenhut stated that the explanation was clear. Mr. Ruth indicated that he had spoken to the Proponent about possible incorporating some LEED objective into the Decision, but that they were not ready to make a formal commitment on that matter.

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

VOTED: to grant the requested Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to grant a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (parking plan and design requirements).

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to grant a Special Permit pursuant to Sections 3.2.4.4 and 6.8 of the By-Law for floor-area ratio in excess of 0.4

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to make the finding that it is not necessary to get Board approval for more than one structure on a lot.

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to grant a Special Permit pursuant to Section 3.2.4.3 for a parking garage serving the New England Business Center Zoning District

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to adopt the Draft Decisions with modifications.

**Correspondence**

Mr. Jacobs noted a letter dated June 3, 2008 directed to the Board of Selectmen, with the Planning Board copied. Mr. Handel stated that they were advisory to the issue raised in the letter, but they are not in a position to comment on it.

Mr. Jacobs noted a letter from the Town Clerk, reminding Boards and Committees to appoint a member to the Town Hall Committee. The Board noted they had previously appointed Ms. McKnight. They then singed the document that certifies the appointment.

**Minutes**

The Board first discussed the April 1, 2008 minutes. Mr. Handel suggested a change to line 3 in the section entitled "Board Deliberation: March 18, 2008 public hearing on proposed Amendment to Zoning By-Law, Map Change to Single Residence B (continued)." The new sentence shall read (changes underlined): "He is reluctant to recommend a change to Town Meeting with a majority <u>of those it affects</u> against it." Mr. Ruth suggested that in the same paragraph, Mr. Eisenhut said "There are advantages owing to the vegetation," rather than the sentence that previously read "There are advantages to owning there in terms of vegetation." Ms. McKnight noted two typos in the same paragraph: "oversight" and "conducive." She also suggested the word "thinking" be changed to "planning" and, in the following paragraph, "prompts" be changed to "trumps."

Mr. Ruth abstained from the vote. Upon a motion made by Mr. Handel, and seconded by Mr. Eisenhut, it was by the four members present unanimously:
VOTED: to adopt the minutes for April 1, 2008 with the modifications.

The Board then discussed the minutes of April 29, 2008.Mr. Ruth stated that he is unsure if the motion in the decision for 250 Cedar Street is accurate. Ms. Newman noted that she will pull the decision and see what it should be. The Board decided to delete this section from the minutes and approve that section at the next meeting.

Upon a motion made by Mr. Handel, and seconded by Mr. Eisenhut, it was by the five members present unanimously:
VOTED: to adopt the minutes as submitted with the exception of the section entitled "8:00 p.m. – Definitive Subdivision Amendment: Charles Flint, 250 Cedar Street, Needham, Massachusetts, Petitioner (Property located at 250 Cedar Street, Needham, MA)."

**Release of Bond and issuance of Permanent Certificate of Occupancy for Major Project Site Plan Special Permit No. 2006-02, Needham Cooperative Bank, 1063 Great Plain Avenue, Needham, MA, Petitioner, (Property located at 1055 – 1063 Great Plain Avenue, Needham, MA.)**

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to issue the Permanent Certificate of Occupancy and release the bond.

**Endorsement of Plan: Major Project Site Plan Special Permit Amendment No.1986E: Three Hundred Realty Trust, Petitioner (Property located at 300 First Avenue, Needham, MA).**

The Board endorsed the plans.

**Board of Appeals – June 19, 2008.**

Neehigh LLC, 93 Union Street, Suite 315, Newton, MA - 629, 633, and 659-661-663 Highland Avenue.

The Board commented on this previously.

Spiga, LLC, 18 Highland Circle, Needham, MA – 18 Highland Circle.

The Board commented on this previously.

William Baker, P.O. Box 66, Dover, MA - 285 Chestnut Street

The Board commented on this previously.

MetroPCS Massachusetts LLC, 285 Billerica Road, Chelmsford, MA - 460 Hillside Avenue

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: "No comment."

MetroPCS Massachusetts LLC, 285 Billerica Road, Chelmsford, MA - 1154 Great Plain Avenue

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: "No comment."

Edgehill Construction Corp., 47 March Road, Needham MA - 471 Hunnewell Street and 817 Highland Avenue

Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the five members present unanimously:
VOTED: to recommend the hearing be continued until more information is provided so that the Planning Board can comment.

The Charles River Association for Retarded Citizens, Inc., 57 Dwight Road, Needham MA - 57 Dwight Road

Ms. McKnight elects not to participate.
Upon a motion made by Mr. Eisenhut, and seconded by Mr. Handel, it was by the four members present unanimously:
VOTED: "No comment."

**Other Business**

Upon a motion made by Mr. Ruth, and seconded by Mr. Handel, it was by the four members present unanimously:

VOTED: that in light of the Chairperson not being able to attend the Town Hall summit, that the Vice-Chairperson, Ms. McKnight, may speak on the Board's behalf.

Ms. Newman reminded the Board of the upcoming Downtown Study Committee presentation and workshop to be held on June 25, 2008, in the Performance Center of the Broadmeadow School.

Ms. Clee updated the Board on the status of the Analysis of Impediments to Fair Housing Plan. She stated that after a meeting with a member of the Selectmen, the revisions that need to be made are clearer and she is working on the draft.

Respectfully submitted,
Alexandra Clee, Assistant Planner

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Jeanne McKnight, Vice-Chairman and Clerk