

NEEDHAM PLANNING BOARD

Tuesday, June 29, 2021

7:15 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**

Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: **826-5899-3198**

Direct Link to meeting: <https://us02web.zoom.us/j/82658993198>

1. Decision: Amendment to Major Project Site Plan Review No. 2018-05: Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, Petitioner, (Property located at 28 Glen Gary Road, Needham, Massachusetts).
2. ANR Plan – Pinewood Landholdings, Inc., Petitioner, (Property located at 107 Thornton Road, Needham, MA).
3. De Minimus Change: Major Project Site Plan Special Permit No. 2014-11: French Press, LLC, 45 Chapel Street, Needham, MA, Petitioner. (Property located at 74 & 78 Chapel Street, Needham, Massachusetts).
4. Public Hearing:

7:30 p.m. Amendment to Major Project Site Plan Review No. 2005-07: Needham Gateway LLC, 66 Cranberry Lane, Needham, Massachusetts, Petitioner, (Property located at 100 and 120 Highland Avenue, Needham, Massachusetts). Regarding request to amend the Decision to allow in the existing development all of the uses allowed by right or by special permit in the zoning district.
5. Request to Release Lots and Establish Subdivision Surety: Heather Lane Definitive Subdivision: William John Piersiak, William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, Evelyn Soule Maloomian, and Koby Kemple, Manager of the 766 Chestnut LLC, Petitioners, (Property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Norfolk County, Massachusetts).
6. Request to Release Lots and Establish Subdivision Surety: Heather Lane Extension Definitive Subdivision and Residential Compound: William John Piersiak, Petitioner, (Property located at 768-768A Chestnut Street, Needham, Norfolk County, Massachusetts).
7. Review of zoning initiatives for the upcoming fiscal year.

8. Review and Discussion: Needham Unite Against Racism Initiative (NUARI) Vision Statement, Guiding Principles and Intentional Practices Created by NUARI Working Group, March 22, 2021.
9. Board of Appeals – July 15, 2021.
10. Minutes.
11. Correspondence.
12. Report from Planning Director and Board members.

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

AMENDMENT TO DECISION

June 29, 2021

**Major Project Site Plan Special Permit
SPMP No. 2018-05
Town of Needham
Temporary Facility for Needham Police and Fire Departments
(Original Decision dated July 17, 2018)**

(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts of 2020)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts (hereinafter the Petitioner), for property located at 28 Glen Gary Road, Needham, Massachusetts. The property is shown on Assessor's Map No. 102 as Parcel 1 containing 24.6 acres in the General Residence District.

This Decision is in response to an application submitted to the Board on April 29, 2021, by the Petitioner for an amendment to a Major Project Site Plan Review Special Permit issued by the Needham Planning Board on July 17, 2018, under Section 7.4 of the Needham Zoning By-Law and Major Project Site Plan Review Special Permit No. 2018-05, Section 4.2.

The requested amendment to Major Project Site Plan Review Special Permit No. 2018-05 (hereinafter the Amendment) would, if granted, permit the modification to Section 3.16 of Decision 2018-05, to allow a portion of the site to be returned to conditions shown on the plan submitted with the application ("Site Layout & Materials Plan" on the plan entitled Hillside Site Plans Post-Use, Sheet LT1.02) when the Police and Fire Department conclude their temporary use of the site, rather than the "current conditions" (pre-Police and Fire usage, existing conditions when the site was used for the Hillside School), as required by the Decision. The proposed post-Police and Fire usage condition would include in excess of 90 parking spaces and will eliminate extensive regrading that would be required to bring the site back to the topography that existed when it served the Hillside School. The site will not be returning to an elementary school use. The Town has no other concrete or imminent plans to use the property for another purpose.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Tuesday, June 1, 2021 at 7:20 p.m. by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the June 1, 2021 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

Exhibit 1 - Application Form for Further Site Plan Review completed by the applicant dated April 29, 2021.

Exhibit 2 - Letter from Attorney Christopher Heep to the Needham Planning Board, dated April 14, 2021 with:

Exhibit A: Plan set entitled “Needham Police and Fire Temporary Facility, 28 Glen Gary Road, Needham, MA 02494,” prepared by Greenman-Pederson, Inc., 181 Ballardvale Street, Suite 202, Wilmington, MA01887, Sheet X0.1, entitled “Partial Existing Conditions Plan, Hillside School,” dated April 3, 2018.

Exhibit B: Plan set entitled “Needham Police and Fire Temporary Facility, 28 Glen Gary Road, Needham, MA 02494,” prepared by Kaestle Boos Associates, Inc., 325 Foxborough Boulevard, Suite 100, Foxborough, MA 02035, Sheet LT1.01, entitled “Hillside Site Plan,” dated June 1, 2018, revised November 7, 2018, November 16, 2018, June 11, 2019 and July 30, 2019.

Exhibit C: Plan set entitled “Needham Police and Fire Temporary Facility, 28 Glen Gary Road, Needham, MA 02494,” prepared by Kaestle Boos Associates, Inc., 325 Foxborough Boulevard, Suite 100, Foxborough, MA 02035, Sheet LT1.02, entitled “Hillside Site Plan, Post-Use,” dated June 1, 2018, revised November 7, 2018, November 16, 2018, June 11, 2019, July 30, 2019 and February 3, 2021.

Plan set entitled “Needham Police and Fire Temporary Facility, 28 Glen Gary Road, Needham, MA 02494,” prepared by Kaestle Boos Associates, Inc., 325 Foxborough Boulevard, Suite 100, Foxborough, MA 02035, Sheet LT2.01, entitled “Hillside Site Plan, Post-Use,” dated June 1, 2018, revised November 7, 2018, November 16, 2018, and February 3, 2021.

Exhibit 3 - Interdepartmental Communication (IDC) to the Board from Chief John Schlittler, Needham Police Department, dated May 5, 2021; IDC from Thomas Ryder, Assistant Town Engineer, dated June 1, 2021; and IDC to the Planning Department from Tara Gurge, Needham Health Department, dated May 28, 2021.

FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings, the Board confirmed its findings and conclusions as contained in its original Decision dated July 17, 2018, except as modified herein.

- 1.1 The Petitioner is seeking the modification to Section 3.16 of Decision 2018-05 to allow a portion of the site to be returned to conditions shown on the plan submitted with the application (“Site Layout & Materials Plan” on the plan entitled Hillside Site Plans Post-Use, Sheet LT1.02) when the Police and Fire Department conclude their temporary use of the site, rather than the “current conditions” (pre-Police and Fire usage, existing conditions when the site was used for the Hillside School), as required by the Decision. The proposed post-Police and Fire usage condition would include in excess of 90 parking spaces and will eliminate extensive regrading that would be required to bring the site back to the topography that existed when it served the Hillside School. The site will not be returning to an elementary school use. The Town has no other concrete or imminent plans to use the property for another purpose.

- 1.2 The primary changes between the previously required final state of the site (i.e. the “current” conditions before the temporary police and fire station as shown on Exhibit 2A) and the proposed state of the site at completion of the temporary use (i.e. shown on Exhibit 2C) are as follows:
- a. The two grassy islands in the parking lot that helped form the former bus turnaround would not be reinstalled;
 - b. The striping of the parking lot would not be redone to alter the direction of the drive aisles; and
 - c. The topography of the site (which previously entailed a consistent grade change over the parking lot) would not be changed back and would instead remain as it is with a concrete raining wall around a portion of the lot (with a 4-foot grade change) and a wooden rail fence.
- 1.3 The Petitioner asserts that the primary rationales for the proposal are:
- a. The site is not proposed to return to an elementary school use and the subsequent use of the property is currently unknown;
 - b. Leaving the site as is (rather than returning to previously approved final state of the site) would minimize construction impacts to the neighborhood; and
 - c. Not returning the site to the previously approved final state of the site would result in approximately \$120,000 savings to the Town in construction costs.
- 1.4 The fields and playground abutting the site have been open to residents, via a walkway from the street located outside of the fencing, during the time that the building was temporarily being used as police and fire building. The fields and playground will continue to be available to residents and the gate in the fencing will be opened to allow for parking in the lot closer to the park for residents.

DECISION

THEREFORE, the Board voted 5-0 to GRANT (1) the requested amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on July 17, 2018, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2018-05, Section 4.2; subject to the following plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Inspector shall not issue any building permit, nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

- 2.0 No Plan modifications are required.

CONDITIONS

The conditions contained in Major Project Site Plan Special Permit No. 2018-05, dated July 17, 2018, are ratified and confirmed except as modified herein.

- 3.1 Paragraph 3.16 of the Decision is deleted and replaced with a new Paragraph 3.16 that reads as follows:

“The Petitioner shall return the site to the conditions shown on the plan submitted with the application (“Site Layout & Materials Plan” on the plan entitled Hillside Site Plans Post-Use, Sheet LT1.02 and (“Post Development Site Grading Plan” on the plan entitled Hillside Site Plans Post-Use, Sheet LT2.01, both as further detailed in Exhibit 2C), when the Police and Fire Department conclude their temporary use of the site. The restoration shall be completed within 6 months of the date the Police and Fire Departments vacate the property with an as-built plan showing the restored condition submitted to the Board for review and approval. Additionally, within 6 months of the date the Police and Fire Departments vacate the property, the Petitioner will return to the Planning Board to describe any new reuse or redevelopment opportunities anticipated at the site, so that the Board can, at that time, determine whether the fence shall remain or shall be taken down.”

- 3.2 There shall be no use of the parking lot for municipal purposes, except as needed for drop off and pick up of possible storage in the building. There shall be no municipal overnight parking.

Reference to this Decision shall be entered upon the Plan, and this approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this Decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this Decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2021

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, for Property located at 28 Glen Gary Road, Needham, Massachusetts, has passed,

_____ and there have been no appeals filed in the Office of the Town Clerk or
_____ there has been an appeal filed.

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner-Certified Mail # _____
Town Clerk
Building Inspector
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board
Chris Heep, Attorney

TOWN OF NEEDHAM
MASSACHUSETTS



2021 JUN 23 PM 4:23

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 Pinewood Land Holdings, Inc
Address 6 Glenwood Rd, PO Box 920018 Needham Ma 02492
2. Name of Engineer or Surveyor Christopher Charlton
Address 105 Beaver St Franklin Ma
3. Deed of property recorded in Norfolk County Registry,
Book 39519, Page 429 & 459
4. Location and description of property 107 Thornton rd existing single family home with
vacant lot adjacent, lot lines to be reworked and existing home to be razed creating two
more evenly sized single family building lots
5. Reasons approval is not required (check as applicable):

☒ 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 president Matt Hughes

Address 6 Glenwood Rd, PO Box 920018 Needham Ma 02492

By _____ (agent)

Application accepted this 23rd day of June 20 21
as duly submitted under the rules and regulations of the Planning Board.

By _____

REGISTRY OF DEEDS USE ONLY

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED.
NEEDHAM PLANNING BOARD:

DATE: _____

THIS ENDORSEMENT IS NOT A DETERMINATION OF CONFORMITY TO ZONING BY LAW REQUIREMENTS.

DISCLOSURE OF NON-CONFORMITY

1. IN THE EVENT THAT THE EXISTING DWELLING IS NOT RAZED, LOTS 1 & 2 WOULD EXIST IN VIOLATION OF THE MINIMUM SIDE YARD SETBACK DIMENSIONAL REQUIREMENT.

2. PARCEL "A" DOES NOT MEET THE ZONING CRITERIA FOR A BUILDABLE LOT. IT IS INTENDED TO BE CONVEYED TO & COMBINED WITH OTHER LAND OF WRIGHT.

I CERTIFY THAT THIS PLAN WAS MADE FROM AN INSTRUMENT SURVEY ON THE GROUND BETWEEN THE DATES OF MAY 17 AND 20, 2021 AND ALL STRUCTURES ARE LOCATED AS SHOWN HERON.

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

I HEREBY CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED IN ACCORDANCE WITH THE PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

CHRISTOPHER C. CHARLTON, P.L.S.

6-22-21

DATE



ZONING DISTRICT: SINGLE RESIDENCE B					
MIN. LOT AREA	MIN. FRONT SETBACK	SIDE SETBACK	REAR SETBACK	MAX. F.A.R.	MAX. LOT COVERAGE
10,000 S.F.	80 FT.	20 FT.	14 FT.	20 FT.	0.36-0.38
MAX. LOT COVERAGE	MAX. LOT COVERAGE	MAX. LOT COVERAGE	MAX. LOT COVERAGE	MAX. LOT COVERAGE	MAX. LOT COVERAGE
25%-30%	25%-30%	25%-30%	25%-30%	25%-30%	25%-30%
MAX. STORIES	MAX. STORIES	MAX. STORIES	MAX. STORIES	MAX. STORIES	MAX. STORIES
2 1/2	2 1/2	2 1/2	2 1/2	2 1/2	2 1/2
MAX. HEIGHT	MAX. HEIGHT	MAX. HEIGHT	MAX. HEIGHT	MAX. HEIGHT	MAX. HEIGHT
35 FT.	35 FT.	35 FT.	35 FT.	35 FT.	35 FT.

BUILD FACTOR
LOT PERM. 2 / ACTUAL LOT AREA
ACTUAL LOT AREA / REQUIRED LOT AREA
LOT 1:
511.62' / 15.315 = 11.16
15.315 / 10.000
LOT 2:
530.75' / 16.898 = 9.87
16.898 / 10.000

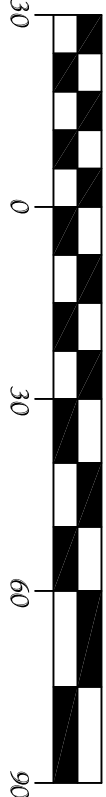
OWNER:
PINEWOOD LAND HOLDINGS, INC.
6 GLENWOOD ROAD
NEEDHAM, MA

REFERENCES:
DEED: BOOK 39519, PAGE 429
PLANS: BOOK 169, PAGE 346
BOOK 2060, PAGE 501
BOOK 2144, PAGE 139
BOOK 2682, PAGE 406
BOOK 3661, PAGE 207
BOOK 3680, PAGE 207
BOOK 3731, PAGE 538
BOOK 4550, PAGE 105
L.C.C.# 25412-A

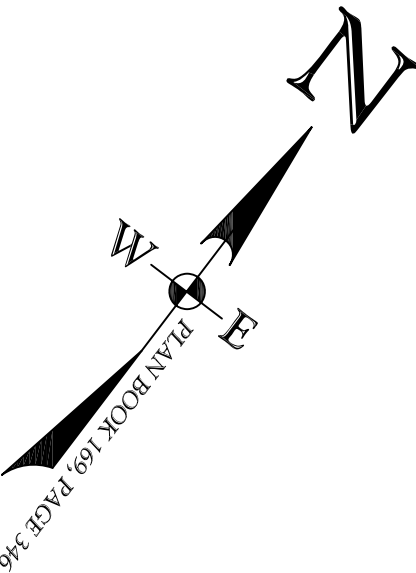
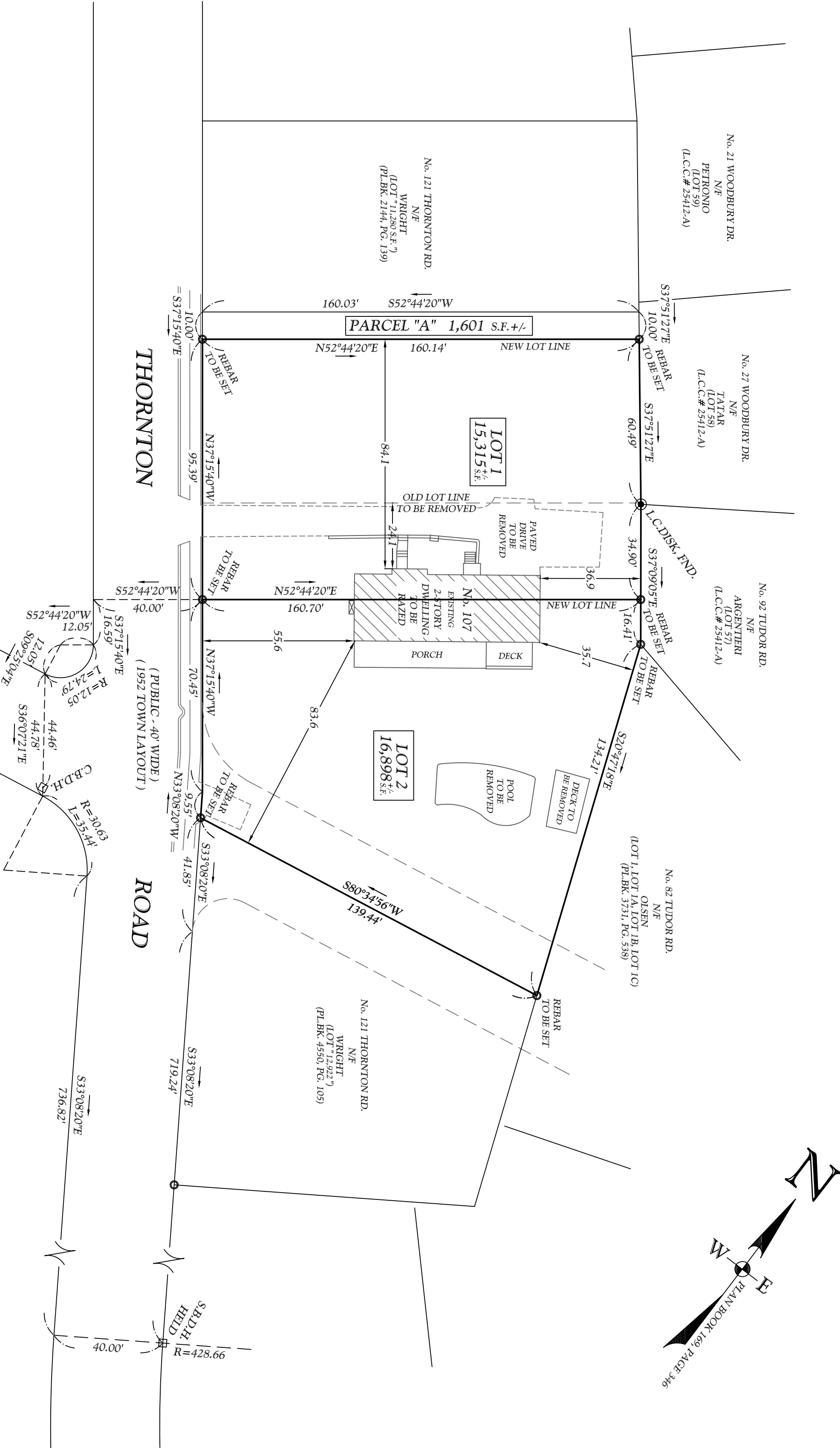
FLOOD PLAIN DETERMINATION: THE LOTS SHOWN ON THIS PLAN LIE IN A ZONE "X" - "AREA OF MINIMAL FLOOD HAZARD" ACCORDING TO FEMA MAP# 25021C00039E, EFFECTIVE 07/17/2012.

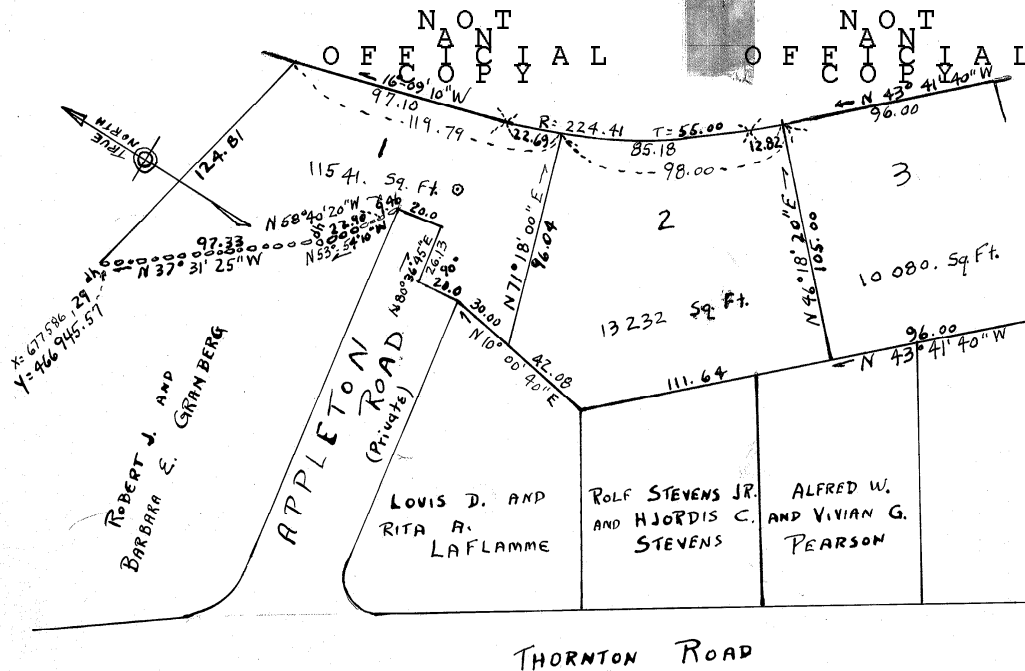
PLAN OF LAND
IN
NEEDHAM, MA

SCALE: 1"=30' JUNE 16, 2021



CONTINENTAL LAND SURVEY, LLC
105 BEAVER STREET, FRANKLIN, MA
(508) 528 - 2528





FOR ABANDONMENT OF
APPLETON ROAD SECTION
AS SHOWN ON THIS SUBDIVISION

MARCH 26, 1957

APPROVED April 9, 1957

Edward H. Hice

Thomas A. Richardson

Henry V. Perry

Edward L. Bower

Edmund W. Wamington

PART OF MAP OF SUBDIVISION
PLAN OF LAND IN
NEEDHAM, MASS.

SCALE 1" = 40' CHENEY & WOODBURY

DEC. 14, 1955 CIVIL ENGINEERS

ADDITIONS APR. 9, 1956

REGISTERED MAY 21, 1956

FILE 658 1956 PL. BK. 202

CHARLES N. ROSS, ASST. REGISTER

Norfolk Registry of Deeds
Dedham, Mass.

Received May 16, 1957 with _____

Filed as No. 556 1957 BK 3559 Pg. 350

Attest *Charles N. Ross* ASST. REGISTER

TOWN OF NEEDHAM
MASSACHUSETTS

2021 JUN 23 PM 4:23



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

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one) Major Project Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property 78 Chapel Street
Name of Applicant Raji D. Spencer, French Press LLC
Applicant's Address 74 Chapel Street, Needham, MA 02492
Phone Number 508-656-0498

Applicant is: Owner _____ Tenant X _____
 Agent/Attorney _____ Purchaser _____

Property Owner's Name Boylston Properties
Property Owner's Address 800 Boylston St. Suite 1390 Boston, MA 02199
Telephone Number 617-262-4646

Characteristics of Property: Lot Area 14264 Present Use Small Retail + Service
 Map # 51 Parcel # 002 Zoning District CB

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

This De Minimus Change is to rejoin 74 Chapel with 78 Chapel Street to create an expanded kitchen for French Press Bakery & Cafe. The use will be consistent with existing special permit 2014-11, for use as a retail bakery and café with an accessory eat in/take out counter and 28 seats. The square footage will increase from 1,508 sq ft to 2,453 sq ft and contain an additional bathroom. The space will be adjoined from the existing kitchen to utilize most existing systems.

Signature of Applicant (or representative) Raji D. Spencer, Manager, French Press LLC
Address if not applicant 800 Boylston St. Suite 1390 Boston, MA 02199
Telephone # (617) 262-4646 - Boylston Properties
Owner's permission if other than applicant William McQuinn, Manager, 1451 Highland Ave

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board [Signature] Date 6/23/2021
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

NOTE: Reports on Minor Projects must be issues within 35 days of filing date.

TOWN OF NEEDHAM
MASSACHUSETTS



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

PLANNING BOARD

APPLICATION FOR SITE PLAN REVIEW

Project Determination: (circle one) Major Project Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property 78 Chapel Street
Name of Applicant Raji D. Spencer, French Press LLC
Applicant's Address 74 Chapel Street, Needham, MA 02492
Phone Number 508-656-0498

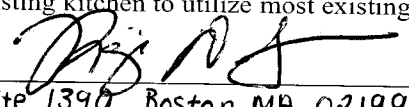
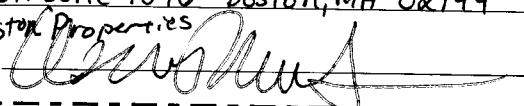
Applicant is: Owner _____ Tenant X _____
 Agent/Attorney _____ Purchaser _____

Property Owner's Name Boylston Properties
Property Owner's Address 800 Boylston St. Suite 1390 Boston, MA 02199
Telephone Number 617-262-4646

Characteristics of Property: Lot Area 14264 Present Use Small Retail + Service
 Map # 51 Parcel # 002 Zoning District CB

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

This De Minimus Change is to rejoin 74 Chapel with 78 Chapel Street to create an expanded kitchen for French Press Bakery & Cafe. The use will be consistent with existing special permit 2014-11, for use as a retail bakery and café with an accessory eat in/take out counter and 28 seats. The square footage will increase from 1,508 sq ft to 2,453 sq ft and contain an additional bathroom. The space will be adjoined from the existing kitchen to utilize most existing systems.

Signature of Applicant (or representative) 
Address if not applicant 800 Boylston St. Suite 1390 Boston, MA 02199
Telephone # (617) 262-4646 - Boylston Properties
Owner's permission if other than applicant 

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board _____ Date _____
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

NOTE: Reports on Minor Projects must be issued within 35 days of filing date.

June 14, 2021

Lee Newman, Planning Director
Town of Needham
Planning Board
Town Hall
Needham, MA 02492

RE: *Application for Site Plan Review*
 74 Chapel Street
 French Press, LLC

Dear Lee:

Submitted herewith please find the following application for site plan review and supporting documents.

1. Application for Site Plan Review for property at 78 Chapel Street, Needham, MA and filing fee of \$250
2. Floor plan of existing and proposed spaces

As set forth in the above submissions, the Applicant is proposing to renovate 945 square feet at 78 Chapel to commingle with 1,508 square feet of existing storefront and space at 74 Chapel Street for use as a retail bakery with an accessory eat in/take out counter and seating (Total Seating 28).

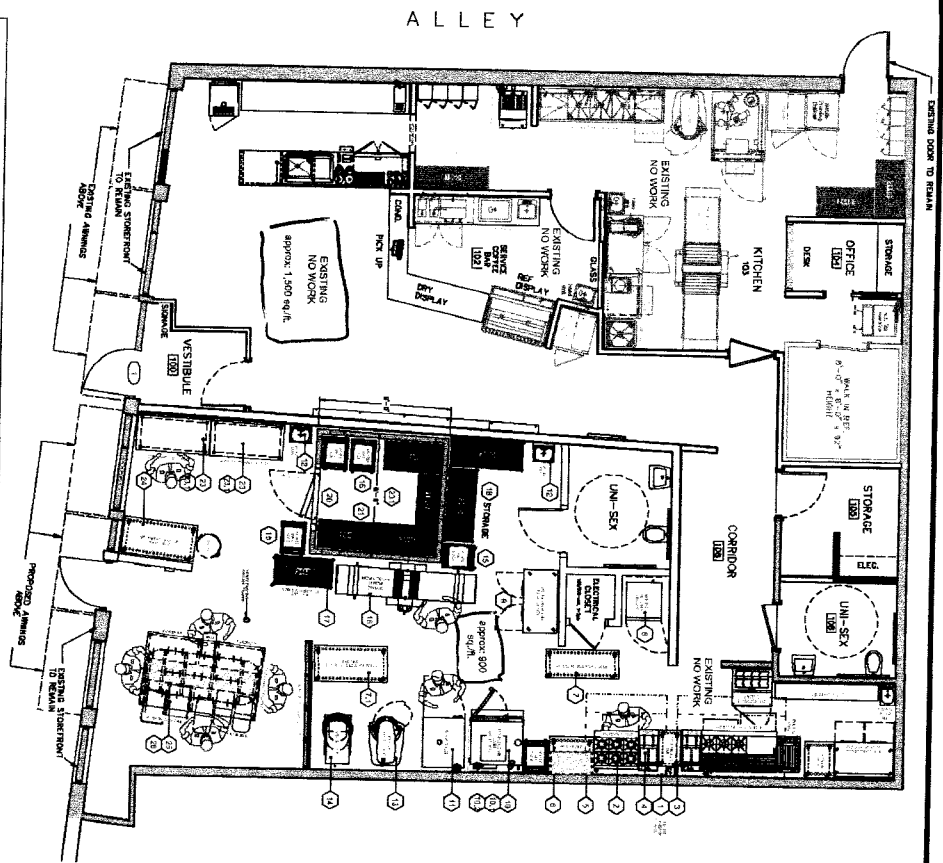
The proposed project will not alter any previous decisions granted by the Planning board for French Press LLC at 74 Chapel. This de minimus change is to rejoin 74 Chapel with 78 Chapel Street to create an expanded kitchen for French Press Bakery & Cafe. The use will be consistent with existing special permit 2014-11. The square footage will increase from 1,508 sq ft to 2,453 sq ft and contain an additional bathroom. The space will be adjoined from the existing kitchen to utilize most existing systems. Exterior conditions will be a continuation of existing structures.

I trust the foregoing is satisfactory. If you require anything further, please contact me at your earliest convenience so that I may be of assistance.

Very truly yours,

Raji D. Spencer

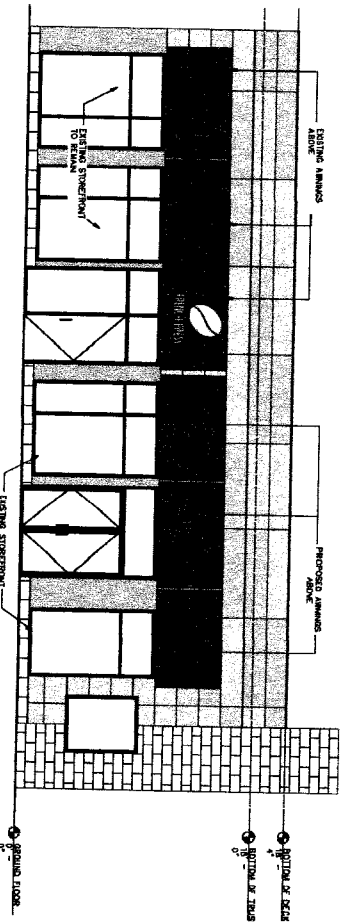
Raji D. Spencer



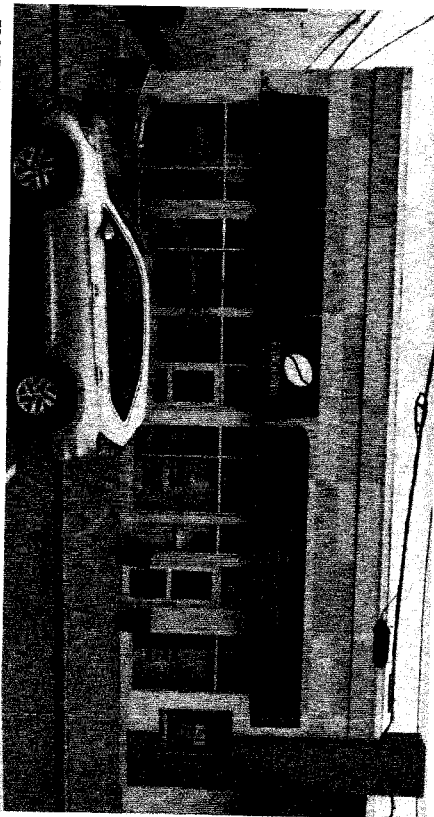
FOODSERVICE EQUIPMENT SCHEDULE

ITEM	DESCRIPTION	QTY	UNIT	MANUFACTURER	MODEL	DATE	STATUS
1	STOVE	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
2	OVEN	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
3	GRILL	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
4	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
5	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
6	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
7	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
8	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
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98	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
99	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED
100	WARMER	1	UNIT	FRIGIDAIRE	FRS100	06-10-21	RELOCATED

FRONT STORE FRONT ELEVATION Showing Proposed New Awning.



FRONT STORE FRONT ELEVATION Showing Existing Conditions



• Total Number of Approved seats per December 15, 2014 decision is 28 with one take out station
 • Current number of seats is 0 and one take out station

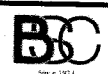
DESIGN DEVELOPMENT
 Not for Construction

NOTE: UTILITIES FOR ALL EQUIPMENT NOT PROVIDED BY REC. NEED TO BE VERIFIED BY CONTRACTOR.
 NOTE: NOT FOR CONSTRUCTION, FOR REFERENCE ONLY.



FOOD SERVICE EQUIPMENT LAYOUT & SCHEDULE

Rev. No.	Date	Description
1	06-10-21	RELOCATED #12 HAND SINK PER HEALTH DEPT. REVIEW



BOSTON SHOWCASE COMPANY
 66 WINCHESTER STREET | NEWTON HIGHLANDS, MA 02461
 617.965.1100 | TOLL FREE: 800.422.5200 | FAX: 617.965.6326
 INFO@BOSTONSHOWCASE.COM | WWW.BOSTONSHOWCASE.COM

PROJECT:
FRENCH PRESS
 -Expansion-
 78 CHAPEL STREET, NEEDHAM,
 MA 02492

GENERAL REQUIREMENTS

- ALL WORK SHALL BE IN COMPLIANCE WITH ALL APPLICABLE LOCALS BUILDING CODES AND REGULATIONS. CONTRACTOR SHALL BE RESPONSIBLE FOR PERMITS APPLICABLE TO SPECIFIC TRADES OR SUBCONTRACTORS.
- CONTRACTOR SHALL EXAMINE THE PREMISES AND SITE SO AS TO COMPARE THEM TO THE CONTRACT DRAWINGS AND WILL BE FAMILIAR WITH THE EXISTING CONDITIONS OF THE BUILDING AND ADJACENT PROPERTY PRIOR TO SUBMISSION OF BID NUMBER. ALLOWANCES ARE TO BE MADE TO INCLUDE ALL ITEMS OF WORK INCLUDING BOTH LABOR OR MATERIALS FOR ALL NOTED, DETAILS, OR IMPLIED ITEMS REQUIRED TO ATTAIN THE COMPLETED CONDITIONS PROPOSED IN THE DRAWINGS AND SPECIFICATIONS.
- ALL SUBCONTRACTORS SHALL INSPECT THE SITE AND CONVEY ANY QUESTIONS REGARDING DESIGN INTENT AND SCOPE OF WORK TO THE GENERAL CONTRACTOR WHO WILL CONVEY THESE TO THE ARCHITECT PRIOR TO SUBMITTING A BID AND PRIOR TO COMMENCING WORK.
- CONTRACTOR SHALL COORDINATE THE WORK OF ALL TRADES AND SUBCONTRACTORS AND SHALL BE RESPONSIBLE FOR ANY ACTS, OMISSIONS, OR ERRORS OF THE SUBCONTRACTORS AND OR PERSON DIRECTLY OR INDIRECTLY EMPLOYED BY THEM.
- CONTRACTOR SHALL ASSUME SOLE RESPONSIBILITY FOR JOB SITE CONDITIONS INCLUDING THE SAFETY OF PERSONS AND PROPERTY FOR THE DURATION OF THE PROJECT.
- CONTRACTOR SHALL CONFORM TO ALL NEIGHBORHOOD ASSOCIATION RULES AND GUIDELINES.
- CONTRACTOR SHALL NOTIFY ARCHITECT IMMEDIATELY AND PRIOR TO ORDERING OF ALL LONG LEAD TIME ITEMS AND OF APPROXIMATE DELIVERY DATES.
- ALL CONSTRUCTION MATERIALS AND SUPPLIES ARE TO BE STORED, HANDLED, AND INSTALLED ACCORDING TO MANUFACTURERS' RECOMMENDATIONS.
- IF ERRORS OR OMISSIONS ARE FOUND IN THE CONTRACT DOCUMENTS, THEY SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT BEFORE PROCEEDING WITH THE WORK.
- DRAWINGS SCHEMATICALLY INDICATE NEW CONSTRUCTION. THE CONTRACTOR SHALL ANTICIPATE, BASED ON EXPERIENCE, A REASONABLE NUMBER OF ADJUSTMENTS TO BE NECESSARY TO MEET THE DESIGN OBJECTIVES AND SHOULD CONSIDER SUCH ADJUSTMENTS AS INCLUDED IN THE SCOPE OF WORK.
- WHEN SPECIFIC FEATURES OF CONSTRUCTION ARE NOT FULLY SHOWN ON THE DRAWINGS OR CALLED FOR IN THE GENERAL NOTES, THEIR CONSTRUCTION SHALL BE OF THE SAME CHARACTER AS SIMILAR CONDITIONS.
- ALL DIMENSIONS ARE TO BE TAKEN FROM NUMERIC DESIGNATIONS ONLY; DIMENSIONS ARE NOT TO BE SCALED OFF OF THE DRAWINGS.
- THESE NOTES ARE TO APPLY TO ALL DRAWINGS AND GOVERN UNLESS MORE SPECIFIC REQUIREMENTS ARE INDICATED THAT ARE APPLICABLE TO PARTICULAR DIVISIONS OF THE WORK. SEE SPECIFICATIONS AND GENERAL NOTES IN THE INDIVIDUAL SUBSECTIONS OF CONTRACT DOCUMENTS FOR ADDITIONAL INFORMATION.
- ALL DIMENSIONS ARE TO FACE OF FINISH UNLESS OTHERWISE NOTED.
- ALL WALL FRAMING SHALL BE 3 5/8" METAL STUD AT 16" ON CENTER UNLESS OTHERWISE NOTED.
- ALL GYPSUM BOARD SHALL BE 5/8" THICK UNLESS OTHERWISE NOTED.

DESIGN IS BASED ON THE INTERNATIONAL BUILDING CODE (IBC) 2009 AND THE MASSACHUSETTS BUILDING CODE 2009 AMENDMENTS. CONSTRUCTION SHALL CONFORM WITH ALL APPLICABLE SECTIONS.

ABBREVIATIONS

A.F.F.	ABOVE FINISHED FLOOR	MIN.	MINIMUM
ACT	ACOUSTICAL CEILING TILE	MISC.	MISCELLANEOUS
ADA	AMERICANS W/ DISABILITIES ACT	MTL	METAL
APPROX.	APPROXIMATE	N.I.C.	NOT IN CONTRACT
ARCH.	ARCHITECTURAL	NO.	NUMBER
AV.	AUDIO VISUAL	N.T.S.	NOT TO SCALE
BLDG.	BUILDING	O/	OVER
BLKG.	BLOCKING	O.C.	ON CENTER
B.O.	BOTTOM OF	O.D.	OUTSIDE DIAMETER
CAB.	CABINET	OPNG.	OPENING
C.H.	CEILING HEIGHT	OPP.	OPPOSITE
CLR.	CLEAR	P.G.	PAINT GRADE
CL	CENTERLINE	PLYWD.	PLYWOOD
COL.	COLUMN	PTD.	PAINTED
CONT.	CONTINUOUS	R.D.	ROOF DRAIN
CMU	CONCRETE MASONRY UNIT	REQ'D.	REQUIRED
C.J.	CONTROL JOINT	R.O.	ROUGH OPENING
DTL.	DETAIL	SCHED.	SCHEDULE
DIA.	DIAMETER	S.G.	STAIN GRADE
DM.	DIMENSION	SM.	SIMILAR
DN	DOWN	S.L.D.	SEE LANDSCAPE DRAWINGS
DWG.	DRAWING	SQ.	SQUARE
(E)	EXISTING	SPEC.	SPECIFICATION
EL.	ELEVATION	S.S.D.	SEE STRUCTURAL DRAWINGS
ELEC.	ELECTRICAL	SSL.	STAINLESS STEEL
EQ	EQUAL	STL.	STEEL
FD.	FLOOR DRAIN	STOR.	STORAGE
F.O.	FACE OF	STRUCT.	STRUCTURAL
F.O.C.	FACE OF CONCRETE	SYM.	SYMMETRICAL
F.O.F.	FACE OF FINISH	T.	TEMPERED
F.O.S.	FACE OF STUD	T&G	TONGUE AND GROOVE
GFIC	GROUND FAULT INTERCEPTOR CIRCUIT	THK.	THICK
GSM.	GALVANIZED SHEET METAL	T.O.	TOP OF
GW.B	GYPSUM WALL BOARD	T.S.	TUBULAR STEEL
H OR HVAC	HEATING, VENTILATING, AND AIR CONDITIONING	TYP.	TYPICAL
		U.O.N	UNLESS OTHERWISE NOTED
H.B.	HOSE BIB	V.I.F.	VERIFY IN FIELD
HM	HOLLOW METAL	W/	WITH
MAX.	MAXIMUM	W/O	WITHOUT
M.O.	MASONRY OPENING	WD.	WOOD
MECH.	MECHANICAL	WPM.	WATERPROOFING MEMBRANE
MEP	MECHANICAL ELECTRICAL PLUMBING		

PROJECT INFORMATION

PROJECT:
FRENCH PRESS
74 CHAPEL STREET
NEEDHAM, MA 02469

DESCRIPTION:
INTERIOR RENOVATION AND BUILD-OUT IN AN EXISTING BUILDING
APPROXIMATELY 1,600 SQFT.

APPLICABLE CODES:
INTERNATIONAL BUILDING CODE
MASSACHUSETTS BUILDING CODE AMENDMENTS (2009)
INTERNATIONAL PLUMBING CODE
MASSACHUSETTS ARCHITECTURAL ACCESS BOARD RULES AND REGULATIONS

USE GROUP:
A-2 RESTAURANT

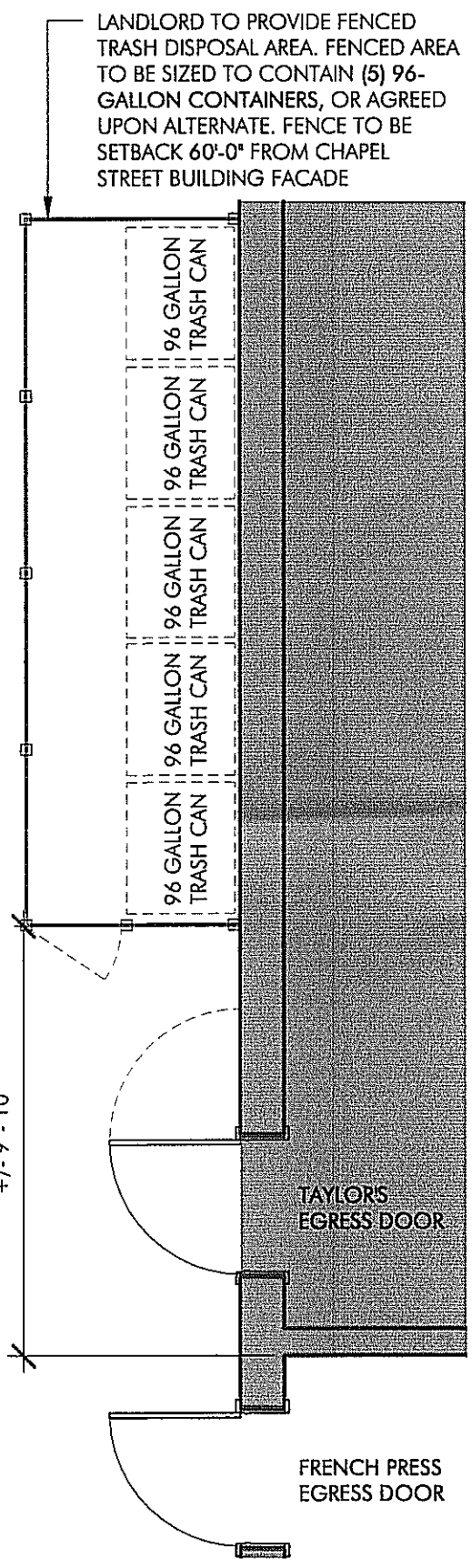
CONSTRUCTION TYPE:
IIB

OCCUPANCY:
KITCHEN, COMMERCIAL = 200 GSF / OCCUPANT
595 GROSS SF / 200 = 2.98 OCCUPANTS
QUEUING LINE = 1 OCCUPANT PER 24"
17'-6" / 24" = 8.75 OCCUPANTS
RESTAURANT = 15 NET SF / OCCUPANT
660 NET SF / 15 = 44 OCCUPANTS
STORAGE = 300 GSF / OCCUPANTS
130 GROSS SF / 300 = .43 OCCUPANTS
OFFICE = 100 GSF / OCCUPANT
32 GROSS SF / 100 = .32 OCCUPANTS
BATHROOMS = 2 OCCUPANTS
TOTAL OCCUPANT LOAD
2.98 + 9.75 + 44 + .43 + .32 + 2 = 58.5 OCCUPANTS
TOTAL PROPOSED SEATING = 28 SEATS

EGRESS DOOR WIDTH
(58.5 OCC.) X 0.15 = 8.78" REQUIRED
PROVIDED: 2 EGRES DOORS, 33.5" CLEAR WIDTH PER DOOR, 67" TOTAL

WATER CLOSET REQUIREMENT:
FEMALE - REQUIRED 1 PER 30
FEMALE - (59/2)/30 = .98
MALE - REQUIRED 1 PER 60
MALE - (59/2)/60 = .49
PROVIDED: 2.0 UNISEX

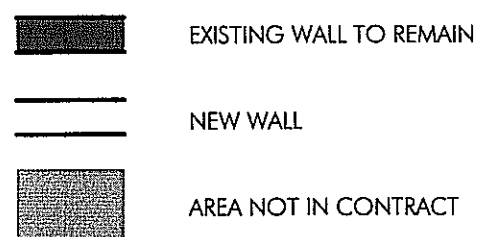
REMOTE PLAN CALLOUT



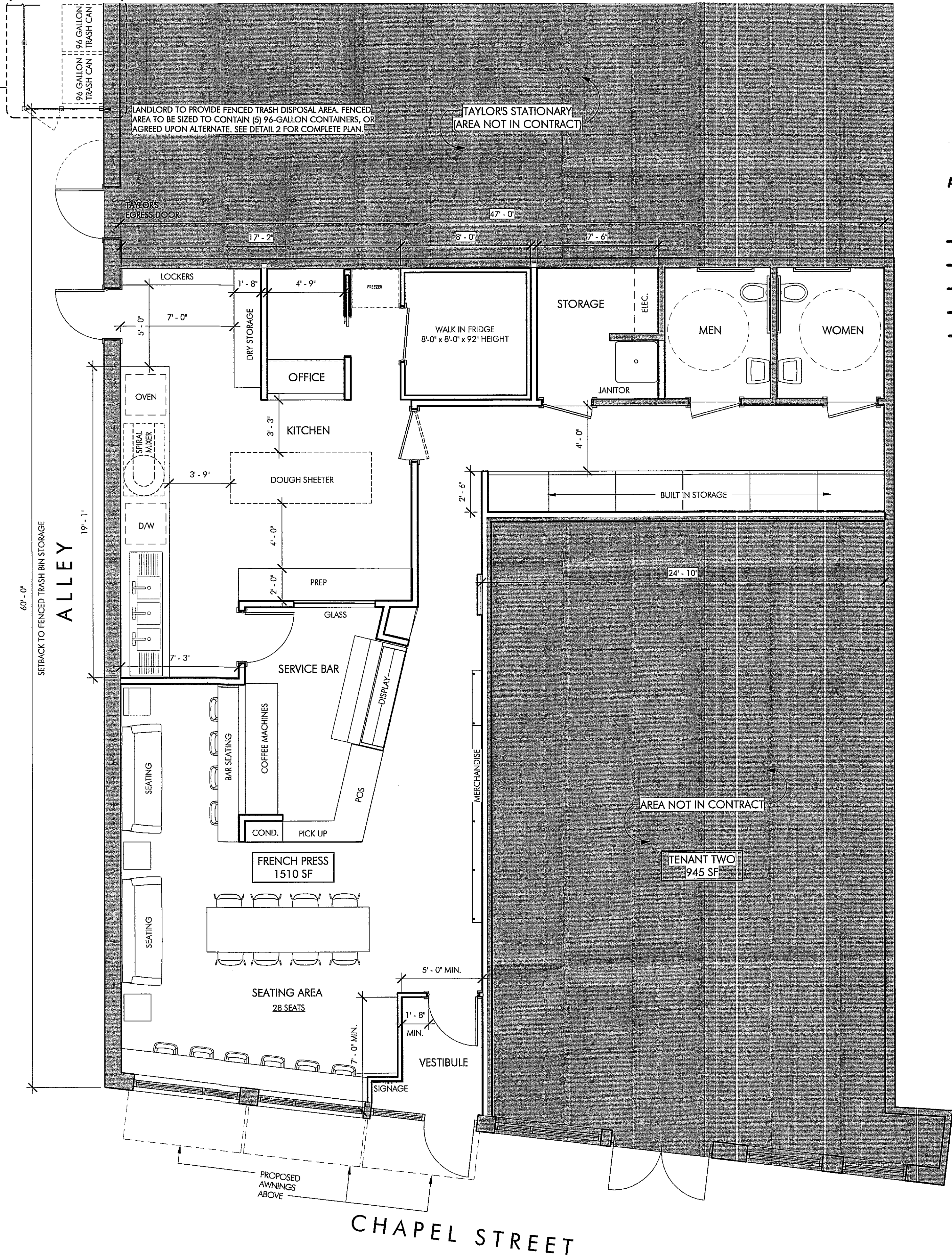
VICINITY MAP



FLOOR PLAN LEGEND



PROPOSED LAYOUT

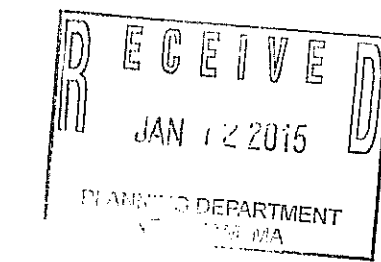


2 EXTERIOR TRASH BIN LOCATION
1/4" = 1'-0"

1 PROPOSED BAKERY LAYOUT
1/4" = 1'-0"

ARCHITECT
EMBARC
ARCHITECTURE + DESIGN STUDIO
49 K STREET, THIRD FLOOR
BOSTON, MA 02127
617.766.8330
www.embarcstudio.com

OWNER
JAY SPENCER
FRENCH PRESS, LLC
74 CHAPEL STREET
NEEDHAM MA 02492



APPROVED BY NEEDHAM
PLANNING BOARD

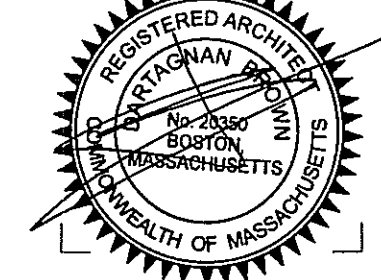
Approved by
Needham
Planning Board

DATE: 2/3/2015

DATE: 2/3/2015

FRENCH PRESS
74 CHAPEL STREET, NEEDHAM, MA 02492

REVISIONS



DRAWING INFORMATION

ISSUE: SPECIAL PERMIT SUBMISSION
DATE: JANUARY 9, 2015
PROJECT #: 1466
DRAWN BY: DP
SCALE: As Indicated

DRAWING TITLE

PROPOSED
FLOOR PLAN

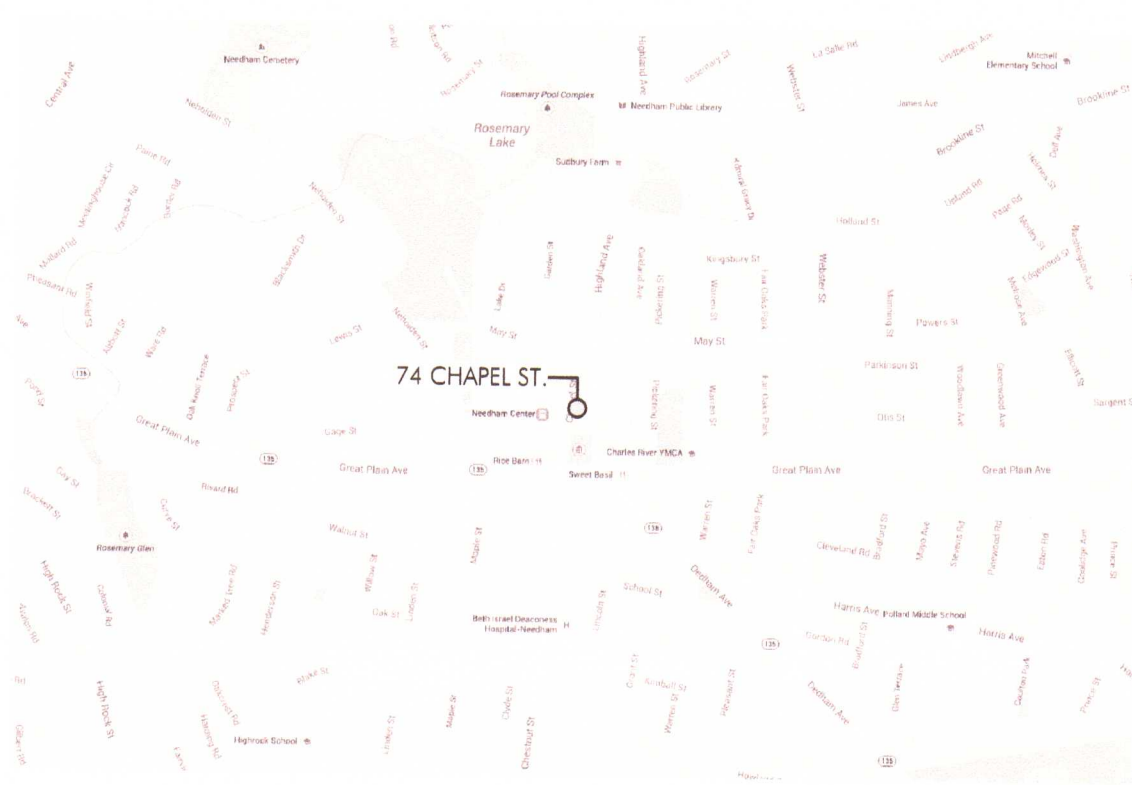
DRAWING NUMBER

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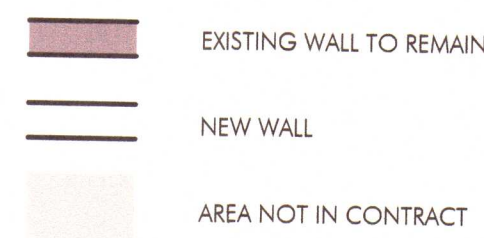
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VICINITY MAP



FLOOR PLAN LEGEND



SHEET LIST

ARCHITECTURAL

A001 CODE REVIEW

FOOD SERVICE

FS-1 FOOD SERVICE EQUIPMENT
PRELIMINARY FLOOR PLAN

ABBREVIATIONS

A.F.F.	ABOVE FINISHED FLOOR	MIN.	MINIMUM
ACT	ACOUSTICAL CEILING TILE	MISC.	MISCELLANEOUS
ADA	AMERICANS W/ DISABILITIES ACT	MTL.	METAL
APPROX.	APPROXIMATE	N.I.C.	NOT IN CONTRACT
ARCH.	ARCHITECTURAL	NO.	NUMBER
AV.	AUDIO VISUAL	N.T.S.	NOT TO SCALE
BLDG.	BUILDING	O/	OVER
BLKG.	BLOCKING	O.C.	ON CENTER
B.O.	BOTTOM OF	O.D.	OUTSIDE DIAMETER
CAB.	CABINET	OPNG.	OPENING
C.H.	CEILING HEIGHT	OPP.	OPPOSITE
CLR.	CLEAR	P.G.	PAINT GRADE
CL	CENTERLINE	PLYWD.	PLYWOOD
COL.	COLUMN	PTD.	PAINTED
CONT.	CONTINUOUS	R.D.	ROOF DRAIN
CMU	CONCRETE MASONRY UNIT	REQ'D.	REQUIRED
C.J.	CONTROL JOINT	R.O.	ROUGH OPENING
DTL.	DETAIL	SCHED.	SCHEDULE
DIA.	DIAMETER	S.G.	STAIN GRADE
DIM.	DIMENSION	SIM.	SIMILAR
DN	DOWN	S.L.D.	SEE LANDSCAPE DRAWINGS
DWG.	DRAWING	SQ.	SQUARE
(E)	EXISTING	SPEC.	SPECIFICATION
EL.	ELEVATION	S.S.D.	SEE STRUCTURAL DRAWINGS
ELEC.	ELECTRICAL	SSTL.	STAINLESS STEEL
EQ	EQUAL	STL.	STEEL
FD.	FLOOR DRAIN	STOR.	STORAGE
F.O.	FACE OF	STRUCT.	STRUCTURAL
F.O.C.	FACE OF CONCRETE	SYM.	SYMMETRICAL
F.O.F.	FACE OF FINISH	T.	TEMPERED
F.O.S.	FACE OF STUD	T&G	TONGUE AND GROOVE
GFIC	GROUND FAULT INTERCEPTOR CIRCUIT	THK.	THICK
GSM.	GALVANIZED SHEET METAL	T.O.	TOP OF
GW	GYPSUM WALL BOARD	T.S.	TUBULAR STEEL
H OR HVAC	HEATING, VENTILATING, AND AIR CONDITIONING	TYP.	TYPICAL
H.B.	HOSE BIB	U.O.N	UNLESS OTHERWISE NOTED
HM	HOLLOW METAL	V.I.F.	VERIFY IN FIELD
MAX.	MAXIMUM	W/	WITH
M.O.	MASONRY OPENING	W/O	WITHOUT
MECH.	MECHANICAL	WD.	WOOD
MEP	MECHANICAL ELECTRICAL PLUMBING	WPM.	WATERPROOFING MEMBRANE

PROJECT INFORMATION

PROJECT:
FRENCH PRESS
74 CHAPEL STREET
NEEDHAM, MA 02469

DESCRIPTION:
INTERIOR RENOVATION AND BUILD-OUT IN AN EXISTING BUILDING
1,678 SQFT.

APPLICABLE CODES:
INTERNATIONAL BUILDING CODE (2009)
MASSACHUSETTS BUILDING CODE AMENDMENTS (2009)
MASSACHUSETTS UNIFORM STATE PLUMBING CODE 248 CMR
MASSACHUSETTS ARCHITECTURAL ACCESS BOARD RULES AND REGULATIONS

USE GROUP:
A-2 RESTAURANT

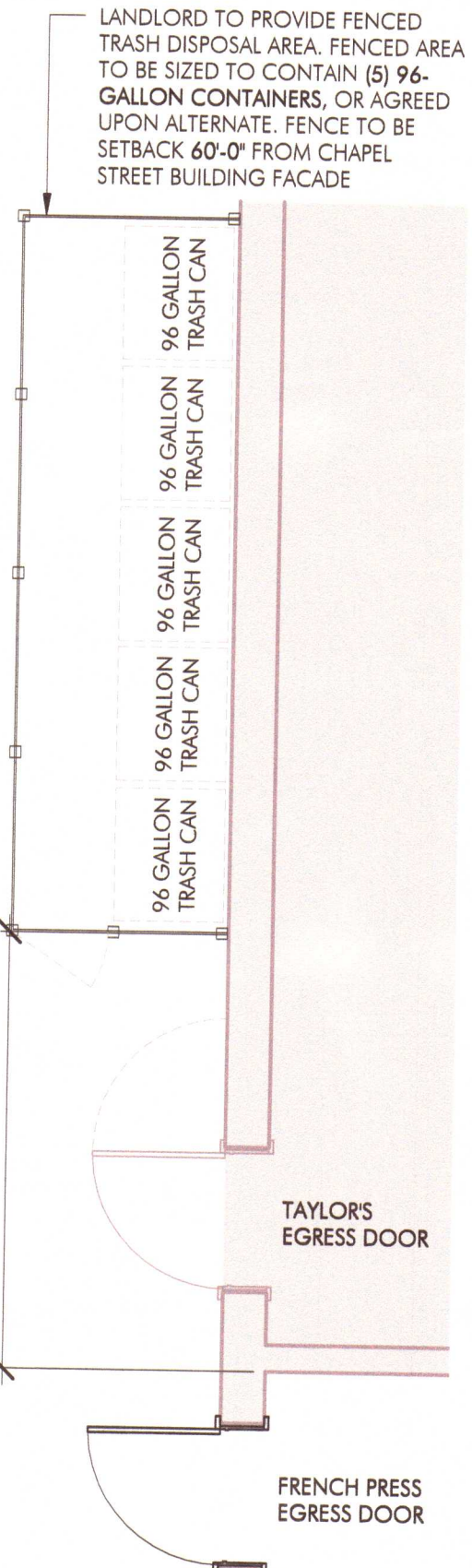
CONSTRUCTION TYPE:
IIB

OCCUPANCY:
KITCHEN, COMMERCIAL = 200 GSF / OCCUPANT
690 GROSS SF / 200 = 4 OCCUPANTS
QUEUING LINE = 1 OCCUPANT PER 24"
17'-6" / 24" = 9 OCCUPANTS
FIXED BAR SEATING = 1 OCCUPANT PER 24"
15'-3" / 24" = 8 OCCUPANTS
RESTAURANT = 15 NET SF / OCCUPANT
534 NET SF / 15 = 36 OCCUPANTS
STORAGE = 300 GSF / OCCUPANTS
126 GROSS SF / 300 = 1 OCCUPANTS
OFFICE = 100 GSF / OCCUPANT
42 GROSS SF / 100 = 1 OCCUPANTS
TOTAL OCCUPANT LOAD
4 + 9 + 8 + 36 + 1 + 1 = 59 OCCUPANTS

EGRESS DOOR WIDTH
(59 OCC.) X 0.15 = 8.85" REQUIRED
PROVIDED: 2 EGRESS DOORS, 33.5" CLEAR WIDTH PER DOOR, 67" TOTAL

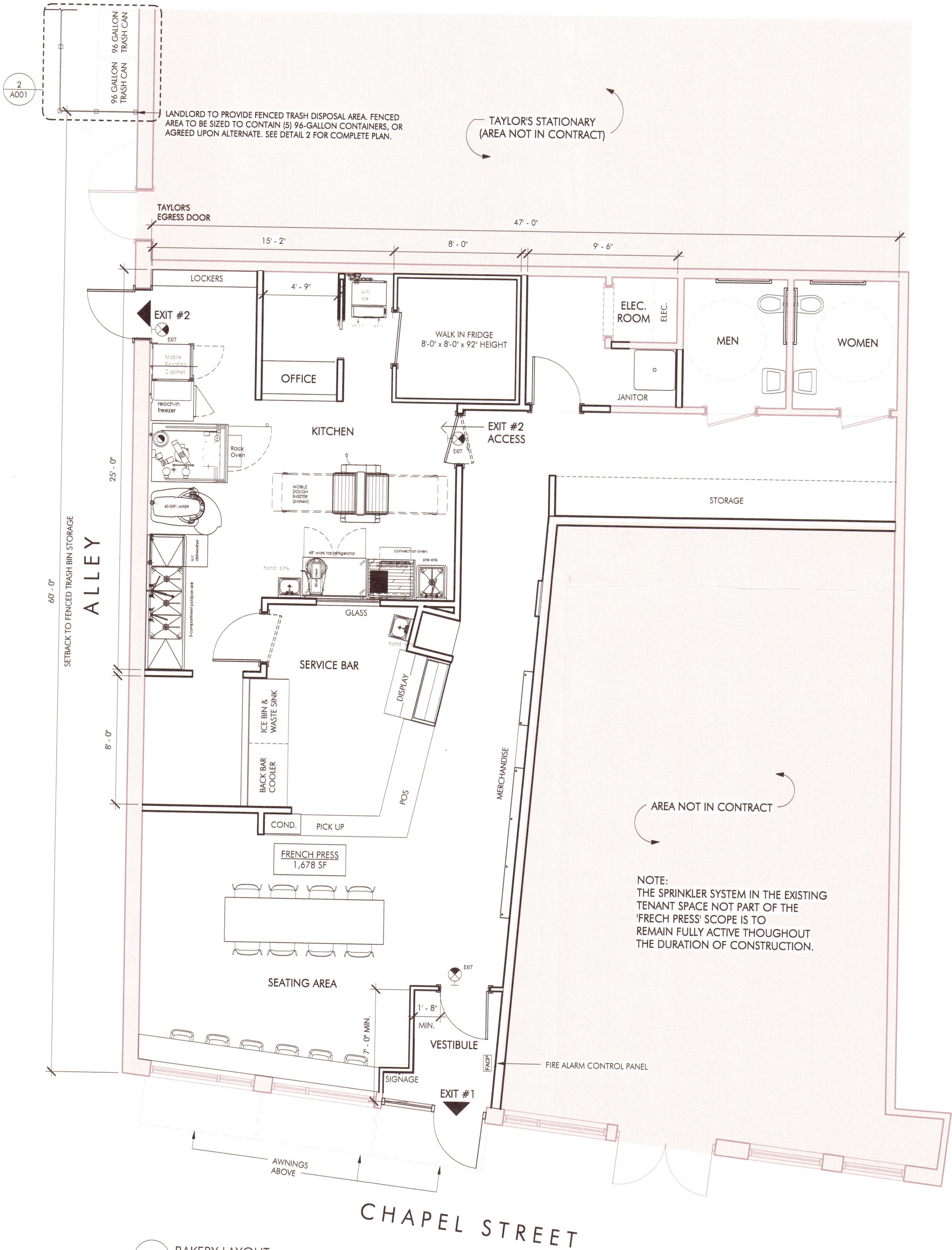
WATER CLOSET REQUIREMENT:
FEMALE- REQUIRED 1 PER 30
FEMALE- (59/2)/30 = .98
MALE - REQUIRED 1 PER 60
MALE - (59/2)/60 = .49
PROVIDED: 2.0 UNISEX

REMOTE PLAN CALLOUT



2 EXTERIOR TRASH BIN LOCATION
1/4" = 1'-0"

PROPOSED LAYOUT



1 BAKERY LAYOUT
1/4" = 1'-0"

ARCHITECT
EMBARC

60 K STREET, THIRD FLOOR
BOSTON, MA 02127
617.766.8330
www.embarcstudio.com

OWNER
JAY SPENCER
FRENCH PRESS, LLC
74 CHAPEL STREET
NEEDHAM MA 02492

FOODSERVICE
HARBOUR FOOD SERVICE
229 MARGINAL STREET
CHELSEA, MA 02150

FRENCH PRESS
74 CHAPEL STREET, NEEDHAM, MA 02492

RECORD DRAWINGS

REVISIONS



DRAWING INFORMATION
ISSUE: RECORD DRAWINGS
DATE: JUNE 9, 2015
PROJECT # 1466
DRAWN BY: DP
SCALE: As Indicated

DRAWING TITLE
AS- BUILT FLOOR PLAN

DRAWING NUMBER
A001

copyright: EMBARC Studio, Inc.

From: [Tara Gurge](#)
To: [Alexandra Clee](#)
Cc: [Lee Newman](#)
Subject: RE: Public Health Division comments - French Press De Min. Change
Date: Thursday, June 24, 2021 5:47:10 PM
Attachments: [image002.png](#)
[image003.png](#)

Alex –

In reference to the project noted in your previous email below, French Press De Min. Change, located at 78 Chapel St., the Public Health Division has the following comments:

- A Food Permit Plan Review packet application was submitted to the Health Division online and we are working with the owner on wrapping up our plan approval process for this proposed food establishment expansion. Once the plans are approved, and construction is complete, we must conduct our required pre-operation inspections and issue a final sign off, prior to allowing this new space to be open to the public.
- If deemed necessary by the Building Dept., the owner may need to submit a 'Notification of Demolition/Renovation Form' online, which the Health Division will be notified on for our review and approval. As part of this approval, on-going pest control may need to be conducted throughout the duration of this construction project, if evidence of pests are observed.
- If the area between the existing Bakery and the area to be renovated cannot be completely sealed off to prevent the risk of construction dust/debris, or migration of construction equipment, to enter into the existing Bakery while it is open to the public, we may require the temporary closure of the Bakery until construction is complete to ensure that no potential health and safety hazards exist as a result of the on-going construction.

Please let me know if you have any additional questions on those requirements.

Thanks,



TARA E. GURGE, R.S., C.E.H.T., M.S.
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health



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STATEMENT OF CONFIDENTIALITY

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[Follow Needham Public Health on Twitter!](#)

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Thursday, June 24, 2021 10:05 AM
To: Tara Gurge <TGurge@needhamma.gov>; Diana Acosta <dacosta@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>
Subject: request for comment - French Press De Min. Change

Tara, Diana,

We received the attached application from French Press for a De Minimus Change. The Planning Board will be reviewing this on Tuesday. As I know you are already familiar with this proposal, I wonder if you might be able to provide comments to the Planning Board today for the packets. If that is not possible (understandable), please provide comments in advance of the meeting on June 29.

(As part of the application, we asked the applicant to include the original approved plan and as-built plan for context).

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

**Amendment to Decision
MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Application No. 2014-11**

**French Press LLC
June 29, 2021
(Original dated December 15, 2014;
amended January 20, 2015, November 28, 2017 and June 26, 2018)**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of French Press LLC, 74 Chapel Street, Needham, Massachusetts (hereinafter referred to as the Petitioner) for property located at 74 Chapel Street, Needham, Massachusetts. Said property is shown on Assessors Plan No. 51 as Parcel 2 containing 14,264 square feet and is located in the Center Business District.

This Decision is in response to an Application submitted to the Board on June 23, 2021, by the Petitioner to amend the Decision by the Board dated December 15, 2014, amended January 20, 2015, November 28, 2017 and June 26, 2018. The requested Amendment would, if granted, permit the Petitioner to rejoin 74 Chapel with 78 Chapel Street to create an expanded kitchen for French Press Bakery and Café.

The changes requested are deemed minor in nature and extent and do not require public notice or public hearing. Testimony and documentary evidence were presented to the Board on June 29, 2021 by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the June 29, 2021 proceedings. After testimony and documentary evidence were presented, the Board took action on the matter.

EVIDENCE

Submitted for the Board's review were the following Exhibits:

- | | |
|------------------|--|
| <u>Exhibit 1</u> | Completed Application for Further Site Plan Review dated June 23, 2021. |
| <u>Exhibit 2</u> | Letter from Raji D. Spencer, dated June 14, 2021. |
| <u>Exhibit 3</u> | Plan entitled "Proposed Floor Plan" prepared by Embarc Architecture + Design Studio, 60 K Street, Third Floor, Boston, MA, 02127, dated January 9, 2015. |
| <u>Exhibit 4</u> | Plan entitled "As-Built Floor Plan" prepared by Embarc Architecture + Design Studio, 60 K Street, Third Floor, Boston, MA, 02127, dated June 9, 2015. |
| <u>Exhibit 5</u> | Plan entitled "French Press Expansion, 78 Chapel Street, Needham," prepared by Boston Showcase Company, 66 Winchester Street, Newton, MA 02461, sheet K-1, entitled "Food Service Equipment Layout & Schedule," dated June 7, 2021, revised June 16, 2021. |
| <u>Exhibit 6</u> | Interdepartmental Communication (IDC) to the Board from Tara Gurge, Needham Health Department, dated June 24, 2021. |

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2014-11, dated December 15, 2014, amended January 20, 2015, November 28, 2017 and June 26, 2018, were ratified and confirmed except as follows:

1. The Board hereby approves the modifications as described in Exhibits 1, 2 and 5 to allow the Petitioner to rejoin 74 Chapel with 78 Chapel Street to create an expanded kitchen for French Press Bakery and Café.
2. The originally approved use will not change and will continue to be retail bakery and café with accessory take out use (with one take out station) and 28 seats maximum.
3. The square footage will increase from 1,508 to 2,453 square feet.
4. The public will not be permitted in the space at 78 Chapel.
5. The proposed changes are deemed minor in nature and do not require public notice or hearing.
6. The Planning Board further approves the Applicant's request to waive the filing fee for this de minimus change.

CONDITIONS AND LIMITATIONS

The Plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 2014-11, dated December 15, 2014, amended January 20, 2015, November 28, 2017 and June 26, 2018, are ratified and confirmed except as modified herein.

DECISION

NOW THEREFORE, by unanimous vote of the Planning Board, the Board votes that:

1. The proposed changes are minor in nature and do not require a public notice or a public hearing. No 20-day appeal period from this Amendment of Decision is required.
2. That the requested modifications are granted.

This approval shall be recorded in the Norfolk County Registry of Deeds. This Major Site Plan Special Permit amendment shall not take effect until the Petitioner has delivered written evidence of recording to the Board.

Witness our hands this 29th day of June, 2021.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairperson

Adam Block, Vice-Chairperson

Martin Jacobs

Jeanne S. McKnight

Natasha Espada

COMMONWEALTH OF MASSACHUSETTS

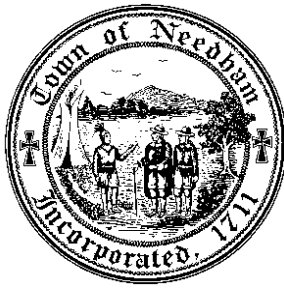
Norfolk, ss _____ 2021

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name: _____

My Commission Expires: _____

Copy sent to:
Petitioner - Certified Mail #
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission
Board of Selectmen
Engineering
Fire Department
Police Department
Raji D. Spencer
Parties In Interest



PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.11; the Needham Zoning By-Laws, Sections 7.4, and Special Permit 2005-07, Section 4.2, the Needham Planning Board will hold a public hearing on Tuesday, June 29, 2021 at 7:30 p.m. regarding the application of the Needham Gateway LLC, 66 Cranberry Lane, Needham, MA, for a Special Permit under Site Plan Review, Section 7.4 of the Needham Zoning By-Law. This meeting is being scheduled as an in-person meeting at Powers Hall, Needham Town Hall, 1471 Highland Avenue, Needham, MA, as the current Covid protocols for remote meeting participation will end on June 15, 2021 unless extended by the state; provided, however, that the Board will conduct the public hearing remotely via the Zoom platform if authorized by Massachusetts law to do so as of the date of the meeting of June 29, 2021. In the event that the hearing is conducted remotely via the Zoom platform, it may be accessed using the information set forth below. All persons interested in attending or being heard on this matter are directed to review the agenda for the Board's June 29, 2021 meeting for further information, which will be posted and publicly available on the Town's website <https://www.needhamma.gov/calendar.aspx> and the Planning Board's agenda archive website at <http://needhamma.gov/Archive.aspx?AMID=32&Type=&ADID=>.

The subject property is located at 100 and 120 Highland Avenue, Needham, Massachusetts, shown on Assessor's Map No. 73 as Parcel 18 containing 82,582 square feet and is partially located in the New England Business Center Zoning District and partially located in the Highland-Commercial 128 Zoning District. The requested Site Plan Special Permit Amendment would, if granted, amend the Decision to allow in the existing development (originally permitted by Special Permit No. 2005-07) all of the uses allowed by right or by special permit in the zoning district. Currently, Section 3.2 of the Special Permit, limits the use of 10,628 square feet of the building at 100 Highland Avenue and 8,020 square feet of the building at 120 Highland Avenue "exclusively for general retail purposes" and "craft, consumer, professional or commercial service establishments dealing directly with the general public." However, even though otherwise allowed as of right or by special permit in the underlying Highland Commercial-128 Zoning District, Section 3.3 of the Special Permit expressly prohibits the following uses in the development: (1) all sit down food and beverage restaurants; (2) all fast food pick up and/or delivery restaurants, excepting Panera Bread; (3) all sports clubs and/or athletic merchandise stores; (4) all convenience markets; (5) all pharmacy stores; (6) all banks; and (7) all video rental stores. Leasing space has been challenging due, in particular, to the Covid 19 pandemic.

In accordance with the Zoning By-Law, Section 7.4, a Site Plan Special Permit Amendment is required. In accordance with Special Permit No. 2005-07, Section 4.2, further site plan approval is required.

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**

Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 Then enter ID: **826-5899-3198**

Direct Link to meeting: <https://us02web.zoom.us/j/82658993198>

The application may be viewed at this link:

<https://www.needhamma.gov/Archive.aspx?AMID=146&Type=&ADID=> . Interested persons are encouraged to attend the public hearing and make their views known to the Planning Board. This legal notice is also posted on the Massachusetts Newspaper Publishers Association’s (MNPA) website at (<http://masspublicnotices.org/>).

NEEDHAM PLANNING BOARD

Needham Times, June 10, 2021 and June 17, 2021.

**TOWN OF NEEDHAM
MASSACHUSETTS**



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

2021 JUN -3 PM 4:54

PLANNING BOARD

**FURTHER
APPLICATION FOR SITE PLAN REVIEW**

Project Determination: (circle one) Major Project Minor Project

This application must be completed, signed, and submitted with the filing fee by the applicant or his representative in accordance with the Planning Board's Rules as adopted under its jurisdiction as a Special Permit Granting Authority. Section 7.4 of the By-Laws.

Location of Property 100 and 120 HIGHLAND AVENUE, NEEDHAM, MA
Name of Applicant NEEDHAM GATEWAY, LLC
Applicant's Address 66 Cranberry Lane, Needham, MA 02492
Phone Number 781-910-7933

Applicant is: Owner _____ Tenant x
Agent/Attorney _____ Purchaser _____

Property Owner's Name BMI REALTY TRUST
Property Owner's Address 26 Pine Tree Drive, Buzzards Bay, MA 02532
Telephone Number 617-462-9119

Characteristics of Property: Lot Area 82,581+/- Present Use RETAIL
Map # 73 Parcel # 18 Zoning District Highland Commercial-128 and New England Business Center

Description of Project for Site Plan Review under Section 7.4 of the Zoning By-Law:

SEE ATTACHED RIDER A.

Signature of Applicant (or representative) 

Address if not applicant _____

Telephone # 781-910-7933

Owner's permission if other than applicant _____

elizabeth berejick
Trustee of BMI Realty Trust

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board _____ Date _____
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

NOTE: Reports on Minor Projects must be issued within 35 days of filing date.

**REFERENCE NUMBER**
9CFC30E4-AE6C-4123-A291-38921FE264B3**SIGNATURE
CERTIFICATE****TRANSACTION DETAILS****Reference Number**
9CFC30E4-AE6C-4123-A291-38921FE264B3**Transaction Type**
Signature Request**Sent At**
05/19/2021 17:44 EDT**Executed At**
05/19/2021 17:48 EDT**Identity Method**
email**Distribution Method**
email**Signed Checksum**
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Disabled**Document Passcode**
Disabled**DOCUMENT DETAILS****Document Name**
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1 page**Content Type**
application/pdf**File Size**
319 KB**Original Checksum**
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Betty Ann Berejik
Email
berejikmotors@aol.com
Components
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signed**Multi-factor Digital Fingerprint Checksum**
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73.4.195.241**Device**
Chrome via Windows**Typed Signature***elizabeth berejik***Signature Reference ID**
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Identity Authenticated At
05/19/2021 17:48 EDT
Signed At
05/19/2021 17:48 EDT**AUDITS****TIMESTAMP**

05/19/2021 17:44 EDT

05/19/2021 17:44 EDT

05/19/2021 17:47 EDT

05/19/2021 17:48 EDT

05/19/2021 17:48 EDT

AUDIT

Mike Moskowitz (mike@edipsemgmt.com) created document 'needham_gateway_sp_amendment_app.pdf' on Chrome via Windows from 75.69.114.193.

Betty Ann Berejik (berejikmotors@aol.com) was emailed a link to sign.

Betty Ann Berejik (berejikmotors@aol.com) viewed the document on Chrome via Windows from 73.4.195.241.

Betty Ann Berejik (berejikmotors@aol.com) authenticated via email on Chrome via Windows from 73.4.195.241.

Betty Ann Berejik (berejikmotors@aol.com) signed the document on Chrome via Windows from 73.4.195.241.

RIDER A
**TO APPLICATION FOR AMENDMENT
TO SPECIAL PERMIT NO. 2005-07**

Reference is made to the Major Project Site Plan Special Permit No. 2005-07 issued to Needham Gateway, LLC (the "Applicant") on January 24, 2006 as amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011 and March 6, 2012 (collectively, the "Special Permit") with respect to a parcel of land containing approximately 82,581 square feet (the "Land") known as and numbered 100 and 120 Highland Avenue, Needham, MA. Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Special Permit.

Pursuant to the Special Permit, Applicant has completed construction of two buildings on the Land, one located at 100 Highland Avenue containing 10,628 square feet of floor area and the other located at 120 Highland Avenue containing 12,820 square feet of floor area (both buildings, together with all other improvements on the Land are herein collectively referred to as the "Shopping Center").

Section 3.2 of the Special Permit, limits the use of 10,628 square feet of the building at 100 Highland Avenue and 8,020 square feet of the building at 120 Highland Avenue "exclusively for general retail purposes" and "craft, consumer, professional or commercial service establishments dealing directly with the general public." However, even though otherwise allowed as of right or by special permit in the underlying Highland Commercial-128 Zoning District, Section 3.3 of the Special Permit expressly prohibits the following uses in the Shopping Center: (1) all sit down food and beverage restaurants; (2) all fast food pick up and/or delivery restaurants, excepting Panera Bread; (3) all sports clubs and/or athletic merchandise stores; (4) all convenience markets; (5) all pharmacy stores; (6) all banks; and (7) all video rental stores."

The Applicant expects that approximately 12,000 square feet of space in the Shopping Center (almost half of the Center's total rentable area) will become available over the next 12 months based on lease non-renewals. As a result, the Applicant has been actively seeking replacement tenants for this space in order to ensure the economic stability of the Shopping Center.

These efforts are taking place in the midst of the unprecedented Covid-19 pandemic which has had devastating economic consequences for many retail operators throughout the country. To state the obvious, this is an extraordinarily challenging time to be re-letting space in the Shopping Center. The only significant interest received for the soon to be vacant space has come from operators of commercial uses that are prohibited by the terms of the Special Permit, even though such uses are either allowed as a matter of right or by special permit within the underlying Highland Commercial-128 Zoning District.

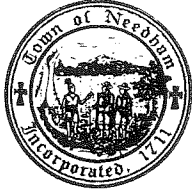
These prohibitions have placed the Shopping Center at an unfair competitive disadvantage relative to other properties in the Highland Commercial-128 Zoning District and relative to other properties in neighboring Newton along Needham Street with whom the Shopping Center competes for tenants. Since the issuance of the original Special Permit in 2006, there has been a sea-change in the world of brick and mortar retail caused by the increasing trend towards on-line purchasing. This trend, coupled with the impact of the Covid-19 pandemic, has significantly limited the

universe of potential retail tenants. In this context, the use restrictions contained in the Special Permit create a serious impediment to the success of the Shopping Center.

For the foregoing reasons, the Applicant seeks to amend the Special Permit to delete Section 3.3 in its entirety and substitute in its place the following revised Section 3.3

“3.3 All uses allowed in the Highland Commercial-128 Zoning District as of right under the Zoning By-Laws of the Town of Needham shall be allowed in the Shopping Center as of right and all uses allowed by special permit under the Zoning By-Laws of the Town of Needham shall be allowed in the Shopping Center by special permit.”

This amendment will not affect the ability of the Planning Board to exercise its authority as to any of the myriad of uses allowed in the Highland Commercial-128 Zoning District allowed only by special permit. As to the uses allowed as a matter of right, the Applicant will be placed on an even playing field with other commercial properties in the same zoning district, a result that is fair and equitable.



TOWN OF NEEDHAM
RECEIVED TOWN CLERK
MASSACHUSETTS NEEDHAM, MA 02492

2006 JAN 31 AM 10:12
Room 20, Town Hall
Needham, MA 02492
781-455-7526

DECISION

PLANNING BOARD

**Major Project Site Plan Special Permit
Needham Gateway, LLC
100, 120 and 126 Highland Avenue
54 Second Avenue, Needham, MA
SPMP 05-07**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Needham Gateway, LLC, 66 Cranberry Lane, Needham, MA 02492 and Boston Bread, LLC, d/b/a/ Panera Bread c/o Steven J. Patterson, Esq., Nutter, McClennen & Fish, LLP, 155 Seaport Blvd., Boston, MA 02210, for property located at 100, 120 and 126 Highland Avenue and 54 Second Avenue, Needham, Massachusetts. Said property is shown on Needham Town Assessors Plan No. 73 as Parcel No. 17, 18, 20, and 21 and Plan No. 300 as Parcel No. 40, containing approximately 82,526 square feet in total.

This decision is in response to an application submitted to the Board on October 6, 2005, by the Petitioner for: (1) a Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); (2) a Special Permit under Section 1.4.6 of the By-Law for the change and extension of a lawful, pre-existing, non-conforming use, and, to the extent applicable and required, the alteration and enlargement and reconstruction of a lawful, pre-existing, non-conforming structure; (3) a Special Permit under Section 3.2.4.2 (h) of the By-Law for the off-street parking of vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located; (4) a Special Permit under Section 3.2.5.2 (j) of the By-Law for a take-out food counter as an accessory to a food retail or other non-consumptive retail establishment; (5) a Special Permit under Section 3.2.5.2 (l) of the By-Law for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere; (6) a Special Permit under Section 3.2.5.2 (m) of the By-Law for a fast-food establishment offering over-the-counter sale of on/off premises prepared food or beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers; (7) a Special Permit under Section 4.5(6) of the By-Law to reduce the setback from a General Residence zoning district line to not less than twenty (20) feet; (8) a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Section 5.1.2 and Section 5.1.3 of the By-Law; and (9) further site plan approval in accordance with Major Project Site Plan Special Permit No. 99-1, Section 4.2.

The subject property is occupied by three existing commercial buildings, numbered and identified 100, 120 and 126 Highland Avenue, Needham, MA. The building at 100 Highland Avenue is currently vacant, and was most recently used for automobile service and repair. The building at 120 Highland Avenue is currently used and occupied by a nail salon. The building at 126 Highland Avenue is currently used and operated for various purposes including automobile sales, and, together with the building at 100 Highland Avenue, was previously in active use as an automobile dealership. The requested Major Project Site Plan Special Permit would, if granted, permit the applicant to demolish the three existing buildings at 100, 120 and 126 Highland Avenue and replace them with two (2) buildings totaling 23,448 square feet of gross floor area featuring multiple separate tenant spaces. While the exact mix of tenants is not yet known, one

space will be occupied by Panera Bread and the other spaces are intended to be occupied by specialty retailers, such as Jos. A. Banks, Clothiers and Carters, Omaha Steaks and retail services, such as a nail salon. In connection therewith, the Petitioner is proposing to regrade portions of the site, to alter, enlarge and expand the existing off-street parking, and to install new landscaping and lighting.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Robert T. Smart, Jr. on Tuesday, November 1, 2005 at 7:30 p.m., in the Selectmen's Meeting Room, in Needham's Town Hall, 1471 Highland Avenue, Needham, Massachusetts. The Public Hearing was continued to December 13, 2005 in the Performance Center of the Broadmeadow School, 120 Broadmeadow Road, Needham, Massachusetts and was further continued to January 10, 2006 in the Cafeteria Space of the Broadmeadow School, 120 Broadmeadow Road, Needham, Massachusetts and January 24, 2006 in the Cafeteria Space of the Broadmeadow School, 120 Broadmeadow Road, Needham, Massachusetts. No testimony was taken at the January 10, 2006 public hearing. Board members, Robert T. Smart, Jr., Maurice P. Handel, Devra G. Bailin and Bruce T. Eisenhut were present throughout the proceedings. The action deadline on the subject application was continued until and through February 28, 2006 upon the request of the Petitioner. The record of the proceedings and the submission upon which this decision is based may be referred to in the office of the Town Clerk or the office of the Board.

Submitted for the Board's deliberation prior to the close of the public hearing were the following exhibits:

- Exhibit 1 - Application for Site Plan Review, dated October 6, 2005 and Addendum A and B.
- Exhibit 2 - Letter from F. Giles Ham, P.E., Vanasse & Associates, Inc., to Mr. Michael Moskowitz, Eclipse Realty Management, LLC, P.O. Box 920757, Needham, MA 02492, dated September 20, 2005.
- Exhibit 3 - Letter from F. Giles Ham, P.E., Vanasse & Associates, Inc., to Mr. Michael Moskowitz, Eclipse Realty Management, LLC, P.O. Box 920757, Needham, MA 02492, dated December 6, 2005.
- Exhibit 4 - Letter to Lee Newman, Planning Director, from George Giunta, Jr., dated September 23, 2005 and attachments.
- Exhibit 5 - Letters to Lee Newman, Planning Director, from George Giunta, Jr., dated January 10, 2006, January 23, 2006, and January 24, 2006.
- Exhibit 6 - Letter to Needham Planning Board from Melanie Prescott and Janice and Richard Epstein, dated October 25, 2005.
- Exhibit 7 - Letter to "Whom it May Concern", from David Tempesta, 11 Capri Drive, Framingham, MA 01701, dated December 13, 2005.
- Exhibit 8 - Letter to Lee Newman, Planning Director, Town of Needham, from BHX, LLC, as Trustee of Second Avenue Realty Trust, 250 First Avenue, Suite 200, Needham, MA 02494, dated December 13, 2005.

- Exhibit 9 - Letter to the Planning Board, from Elizabeth Kaponya, dated November 1, 2005.
- Exhibit 10 - Drainage Calculations and Stormwater Management Plan for Proposed Commercial Development at 100, 120 & 126 Highland Avenue (Tax Map 73, Lots 17, 18 & 21) in Needham, Massachusetts, prepared for Needham Gateway, LLC, Box 920757, Needham, Massachusetts 02492, prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated August 5, 2005 and revised September 14, 2005.
- Exhibit 11 - Drainage Calculations and Stormwater Management Plan for Proposed Commercial Development at 100, 120 & 126 Highland Avenue (Tax Map 73, Lots 17, 18 & 21) in Needham, Massachusetts, prepared for Needham Gateway, LLC, Box 920757, Needham, Massachusetts 02492, prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated August 5, 2005, revised September 14, 2005, November 17, 2005, and January 3, 2006.
- Exhibit 12 - Plan comprised of 7 Sheets: Sheet 1 of 7, Cover Sheet, entitled "Proposed Commercial Development 100, 120 & 126 Highland Avenue (Tax Map 73, Lots 17, 18 & 21) Needham, Massachusetts", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 8/31/05 and 9/14/05; Sheet 2 of 7, Sheet No. E-1, entitled "Existing Conditions Plan", prepared by Otte & Dwyer, Inc., 196 Central Avenue, Saugus, MA 01906 and McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05; Sheet 3 of 7, Sheet No. C-1, entitled "Site Layout Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05; Sheet 4 of 7, Sheet No. C-2, entitled "Grading & Drainage Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05, 8/31/05, and 9/14/05; Sheet 5 of 7, Sheet No. CD-1, entitled "Construction Details I", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005; Sheet 6 of 7, Sheet No. CD-2, entitled "Construction Details II", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05; Sheet 7 of 7, Sheet No. CD-3, entitled "Construction Details III", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05.
- Exhibit 13 - Plan comprised of 7 Sheets: Sheet 1 of 7, Cover Sheet, entitled "Proposed Commercial Development 100, 120 & 126 Highland Avenue (Tax Map 73, Lots 17, 18 & 21) Needham, Massachusetts", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 8/31/05, 9/14/05, 11/17/05 and 12/1/05; Sheet 2 of 7, Sheet No. E-1, entitled "Existing Conditions Plan", prepared by Otte & Dwyer, Inc., 196 Central Avenue, Saugus, MA 01906 and McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05; Sheet 3 of 7, Sheet No. C-1, entitled "Site Layout Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 11/17/05 and 12/1/05; Sheet 4 of 7, Sheet No. C-2, entitled "Grading & Drainage Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated

July 1, 2005, revised 8/5/05, 8/31/05, 9/14/05, 11/17/05 and 12/1/05; Sheet 5 of 7, Sheet No. CD-1, entitled "Construction Details I", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 12/1/05; Sheet 6 of 7, Sheet No. CD-2, entitled "Construction Details II", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05 and 12/1/05; Sheet 7 of 7, Sheet No. CD-3, entitled "Construction Details III", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05 and 12/1/05.

Exhibit 14 - Plan comprised of 7 Sheets: Sheet 1 of 7, Cover Sheet, entitled "Proposed Commercial Development 100, 120 & 126 Highland Avenue (Tax Map 73, Lots 17, 18 & 21) Needham, Massachusetts", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 8/31/05, 9/14/05, 11/17/05, 12/1/05 and 1/3/06; Sheet 2 of 7, Sheet No. E-1, entitled "Existing Conditions Plan", prepared by Otte & Dwyer, Inc., 196 Central Avenue, Saugus, MA 01906 and McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05; Sheet 3 of 7, Sheet No. C-1, entitled "Site Layout Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 11/17/05, 12/1/05, 12/15/05 and 1/3/06; Sheet 4 of 7, Sheet No. C-2, entitled "Grading & Drainage Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 8/31/05, 9/14/05, 11/17/05, 12/1/05 and 1/3/06; Sheet 5 of 7, Sheet No. CD-1, entitled "Construction Details I", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 12/1/05; Sheet 6 of 7, Sheet No. CD-2, entitled "Construction Details II", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05 and 12/1/05; Sheet 7 of 7, Sheet No. CD-3, entitled "Construction Details III", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05 and 12/1/05.

Exhibit 15 - Plan comprised of 7 Sheets: Sheet 1 of 7, Cover Sheet, entitled "Proposed Commercial Development 100, 120 & 126 Highland Avenue (Tax Map 73, Lots 17, 18 & 21) Needham, Massachusetts", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 8/31/05, 9/14/05, 11/17/05, 12/1/05, 1/3/06 and 1/18/06; Sheet 2 of 7, Sheet No. E-1, entitled "Existing Conditions Plan", prepared by Otte & Dwyer, Inc., 196 Central Avenue, Saugus, MA 01906 and McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 8/5/05; Sheet 3 of 7, Sheet No. C-1, entitled "Site Layout Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 11/17/05, 12/1/05, 12/15/05, 1/3/06 and 1/18/06; Sheet 4 of 7, Sheet No. C-2, entitled "Grading & Drainage Plan", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05, 8/31/05, 9/14/05, 11/17/05, 12/1/05, 1/3/06 and 1/18/06; Sheet 5 of 7, Sheet No. CD-1, entitled "Construction Details I", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005 and revised 12/1/05 and 1/18/06; Sheet 6 of 7, Sheet No. CD-2,

entitled "Construction Details II", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05 and 12/1/05; Sheet 7 of 7, Sheet No. CD-3, entitled "Construction Details III", prepared by McKenzie Engineering Group, Inc., 325 Central Street, Saugus, Massachusetts 01906, dated July 1, 2005, revised 8/5/05 and 12/1/05.

- Exhibit 16 - Plan composed of 4 sheets: Sheet 1 of 4, Elevations drawing, prepared by ADD Inc., dated August 19, 2005; Sheet 2 of 4, entitled "Site Layout Plan", prepared by Otte & Dwyer, Inc., 196 Central Avenue, Saugus, MA 01906, dated June 30, 2005; Sheet 3 of 4, entitled "Site Planting Plan", prepared by BSC Group, 384 Washington Street, Norwell, Massachusetts 02061, dated August 17, 2005; Sheet 4 of 4, entitled "Site Lighting Plan", prepared by WLS Lightings Systems PO Box 100519, Fort Worth, Texas 76185, dated July 11, 2005.
- Exhibit 17 - Elevation drawing entitled "Needham Gateway Shops", prepared by ADD Inc., dated December 2, 2005.
- Exhibit 18 - Elevation drawing entitled "Needham Gateway Shops", prepared by ADD Inc., dated January 5, 2006.
- Exhibit 19 - Elevation drawing entitled "Needham Gateway Shops", prepared by ADD Inc., dated January 24, 2006.
- Exhibit 20 - A Plan consisting of 11 sheets, stamped Approved by the Town of Needham Design Review Board on December 16, 2005.
- Exhibit 21 - Letter to Theodora Eaton, Town Clerk from Lee Newman, Planning Director, dated January 12, 2006.
- Exhibit 22 - Interdepartmental Communication (IDC) to the Board from Lt. John H. Kraemer, Needham Police Department, dated October 27, 2005; three (3) IDC's to the Board from the Fire Department, dated October 12, 2005, December 9, 2005 and January 18, 2006; three (3) E-mails to Lee Newman, Planning Department from Anthony DelGaizo, Department of Public Works, dated November 1, 2005, December 14, 2005 and January 24, 2006; IDC to the Board from the Design Review Board, dated January 24, 2006.

Exhibits 1, 2, 3, 4, 5, 11, 15, 16, and 19 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings, the Board found and concluded that:

- 1.1 The subject property is partially located in the New England Business Center zoning district (42%) and partially located in the Highland Commercial-128 zoning district (58%) at 100, 120, and 126 Highland Avenue and 54 Second Avenue, Needham, Massachusetts, and is shown on Assessors Plan No. 73 as Parcel No. 17, 18, 20, and 21 and Plan No. 300 as Parcel No. 40, containing approximately 82,526 square feet in total. The property is owned by BMI Realty Trust, Silvana A. Giner, Trustee, c/o David R. Cox, Law Offices of Gilbert W. Cox, Jr., 60 Dedham Avenue, Needham, MA.

- 1.2 The subject property is currently occupied by three existing commercial buildings, numbered and identified 100, 120 and 126 Highland Avenue, Needham, MA. The building at 100 Highland Avenue is currently vacant, and was most recently used for automobile service and repair. The building at 120 Highland Avenue is currently used and occupied by a nail salon. The building at 126 Highland Avenue is currently used and operated for various purposes including automobile sales, and, together with the building at 100 Highland Avenue, was previously in active use as an automobile dealership. In addition, the subject property is occupied by multiple off-street parking areas, including a large parking area located to the rear of the three buildings, at 54 Second Avenue (the "Rear Parking Area"). The "Rear Parking Area" was previously the subject of Major Project Site Plan Special Permit No. 99-1, dated April 27, 1999.
- 1.3 The Petitioner proposes to demolish the three existing buildings at 100, 120 and 126 Highland Avenue and to replace them with two (2) new buildings constituting 23,448 square feet of gross floor area featuring multiple separate tenant spaces. The first building located adjacent to Second Avenue will contain 12,820 square feet of gross floor area. Four thousand eight hundred (4,800) square feet of this building will be utilized for a fast-food restaurant with accessory take-out capability and bakery; the remaining 8,020 square feet will be dedicated to retail use. The second building located adjacent to Highland Terrace will contain 10,628 square feet dedicated to retail use. As shown on the Plan, the two buildings will be situated within the Highland Commercial-128 zoning district, close to Highland Avenue.
- 1.4 In order to provide adequate off-street parking and access for the new buildings, the "Rear Parking Area" will be modified and expanded with access provided off Second Avenue and Highland Avenue. Access to the premises at Highland Avenue will be restricted to a right turn in from Highland Avenue and a right turn out onto Highland Avenue. A left turn directly from the premises onto Highland Avenue will not be permitted. In connection with the above-noted items, the Petitioner further proposes to regrade portions of the site, to alter, enlarge and expand the existing off-street parking, and to install new landscaping and lighting.
- 1.5 The Petitioner proposes to divide the buildings into multiple separate tenant spaces. At present, only the food-food restaurant tenant has been firmly identified, namely, Panera Bread. However, the remaining spaces are intended to be occupied by specialty niche retailers and retail services of less than 10,000 square feet of floor area each. In that regard, Jos. A. Banks, Clothiers and Carters, and Omaha Steaks have been identified as potential specialty niche retailers and a nail salon as a potential retail service. Pursuant to Section 3.2.5.1 of the By-Law, retail establishments serving the general public are allowed as-of-right, provided each such establishment contains less than 10,000 square feet of floor area. Furthermore, pursuant to the said section, craft, consumer, professional or commercial service establishments dealing directly with the general public are also allowed as-of-right. Therefore, the use of the building for such retail and retail service purpose will comply with the applicable use provisions of the By-Law.
- 1.6 The Petitioner has requested Special Permits under Section 3.2.5.2 (j), Section 3.2.5.2 (l) and Section 3.2.5.2 (m) of the By-Law for: (1) a take-out food counter as an accessory to a food retail or other non-consumptive retail establishment of the By-Law; (2) a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere; and (3) a fast-food establishment offering over-the-counter sale of on/off premises prepared food or

beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers.

- 1.7 Panera Bread proposes to occupy 4,800 square feet of first floor space in the building located adjacent to Second Avenue and to operate therein a one hundred thirty-seat (130) fast-food restaurant offering over-the-counter sale of on/off premises prepared food and beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers. A take-out and bakery operation accessory to the fast-food use is also proposed. The retail/bakery component of the business is expected to account for approximately 10-15% of the business and the sale of prepared foods is expected to account for approximately 85-90% of the business. Whereas, Panera Bread features the dispensing of prepared foods for immediate consumption both on and off the premises, such use constitutes a fast-food establishment pursuant to the By-Law and therefore is allowable by special permit. However, Panera Bread also features the sale of prepared bakery products at retail as an integral component of its operation. Such activity may be classified as food retail, take-out or both. Whereas food retail is permissible as of right, and take-out is permissible by special permit, the proposed use will comply, provided the requisite special permits are issued.
- 1.8 Panera Bread proposes to operate the fast-food restaurant with accessory take-out and bakery capability seven (7) days a week, between 5:00 a.m. and 11:30 p.m., Monday through Sunday. Expected peak hours of operation are during the lunch hour between noon and 1:30 p.m.
- 1.9 The number of employees involved in the operation of the proposed fast-food restaurant with accessory take-out and bakery capability, at any one time will range from 3-6 employees between 5:00 a.m. and noon, 11-13 employees between noon and 1:30, and 5-7 employees between 1:30 p.m. and 11:30 p.m.
- 1.10 Approximately 48,004 square feet of the subject premises (58%) are located in the Highland Commercial-128 zoning district, and approximately 34,522 square feet (42%) are situated in the New England Business Center zoning district. Section 1.5 of the By-Law provides that "if a lot is located in more than one zoning district, the minimum area, frontage and all other dimensional requirements of the district in which fifty (50) percent or more of the lot is located shall apply throughout." Whereas more than fifty percent (50%) of the subject premises is located in the Highland Commercial-128 zoning district, the dimensional requirements of the Highland Commercial-128 zoning district apply.
- 1.11 As indicated in the Zoning Table shown on the Plan, the lot conforms to zoning requirements as to area and frontage. As indicated in the Zoning Table shown on the Plan, the proposed building will comply with all applicable dimensional and density requirements of the Highland Commercial-128 zoning district namely, front, side and rear setback, maximum building height, maximum lot coverage, floor area ratio, and open space.
- 1.12 Sections 4.5 and 4.5.1 of the By-Law relating to the Highland-Commercial 128 zoning district impose four additional requirements on the subject property as follows:
 - (a) The first special requirement is that all buildings be set back a minimum of 50 feet from the General Residence zoning district line. With respect to the premises, that line is located at the rear lot corner of the parcel. Therefore, the proposed building, which is set back from the rear left corner of the property a

distance of 24 feet, does not comply with the requirement. However, pursuant to Section 4.5(6), the Planning Board may reduce the applicable setback to not less than 20 feet, by special permit, thereby allowing the proposed building placement. The Petitioner has requested a Special Permit under Section 4.5(6) to reduce the setback from a General Residence zoning district line from 50 to 24 feet.

- (b) The second special requirement is that all surface parking be located to the side and rear of the building. Whereas, all off-street parking will be situated to the rear of the proposed new buildings such requirement has been met.
 - (c) The third special requirement is that all first floor businesses have individual entrances, and because the premises has frontage on Highland Avenue, such entrances must have access from Highland Avenue. As indicated on the plans and other materials, each tenant will have separate main individual entrances both off the parking lot and off Highland Avenue. Therefore, the fourth special requirement is met.
 - (d) The fourth special requirement is that the maximum uninterrupted facade length be no longer than 200 feet. The maximum uninterrupted facade length of the proposed building located adjacent to Second Avenue is approximately 140 feet. The maximum uninterrupted facade length of the proposed building located adjacent to Highland Terrace is approximately 45 feet. Therefore, the fifth requirement is met.
- 1.13 The Petitioner has requested a Special Permit under Section 3.2.4.2 (h) of the By-Law for off-street parking of vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located. The proposed rear parking area was previously used by Berejik Motors, Inc. for the parking of vehicles in connection with the sale and leasing of vehicles pursuant to Site Plan Special Permit No. 99-1, dated April 27, 1999.
- 1.14 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required parking). The total parking requirement for the proposed retail use, will be 64 parking spaces ($18,648 \div 300 = 62.16$). The total parking requirement for the fast-food restaurant namely, Panera Bread, will be 64 parking spaces ($130 \text{ seats} \div 3 = 43.33$, plus 20 seats for two take-out stations = 63.33 spaces). For this calculation, each cash register is considered a take-out station. The parking requirement for the entire site is 127 parking spaces and only 97 spaces are proposed. A waiver of 30 parking spaces is required under Section 5.1.2.
- 1.15 The parking requirements for Panera Bread include one parking space per three seats, plus 20 spaces for the take-out stations totaling 64 parking spaces. Panera Bread has conducted parking surveys for their existing facilities and their parking requirements to meet peak demand are 40 spaces or 24 spaces less than the town requirement. In addition, the Panera Bread peak parking demand will occur between 12 noon and 1:00 p.m., while traditional retail will peak between 2:00 p.m. and 3:00 p.m. At the 2:00 p.m. to 3:00 p.m. period Panera Bread restaurants will be at 70 percent of their peak or 28 spaces based upon industry standards. Thus, the expected peak on Saturday between 2:00 p.m. and 3:00 p.m. is expected to be as follows: Panera Bread (4,800 square feet) = 28 spaces plus

the remaining retail (19,103 square feet) = 63 spaces, for a total requirement of 91 spaces in comparison to the 97 parking spaces supplied. Finally, it should be noted that the project is marketed towards specialty retailers such as Jos. A. Banks and Clothiers and Carters which are specialty clothing stores which have lower parking and traffic characteristics in comparison to typical retailers.

- 1.16 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan and Design Requirement). More particularly, the Petitioner seeks a waiver from Section 5.1.3(j), to waive the ten (10) foot parking setback requirement from the front lot line along Second Avenue to seven (7) feet and in Section 5.1.3 (k) to waive the associated ten (10) foot wide landscaped area requirement as it pertains to said ten (10) foot front setback requirement along Second Avenue.
- 1.17 The Petitioner has requested further site plan approval in accordance with Major Project Site Plan Special Permit No. 99-1, Section 4.2. The "Rear Parking Area" to the rear of the three buildings, at 54 Second Avenue, was previously the subject of Site Plan special permit No. 99-1, dated April 27, 1999. That special permit authorized the development and use of the "Rear Parking Area" for the parking of vehicles in connection with the sale or leasing of vehicles and was later subject to an Amendment, Site Plan Special Permit No. 99-1, issued to Berejik Motors, Inc., dated July 30, 2002. However, the amendment was never acted upon and at this time has expired.
- 1.18 The Petitioner appeared before the Design Review Board on December 16, 2005 and January 23, 2006, and obtained conditional approval for the project.
- 1.19 Adjoining premises will be protected against seriously detrimental uses on the site by provision of surface water drainage, sound and site buffers, and preservation of views, light and air. The proposed retail use is allowed as a matter of right in the Highland Commercial-128 zoning district and the proposed food restaurant use is allowed by Special Permit. Surface water drainage from the site will be improved from what presently exists. All stormwater generated from the site will drain to the municipal storm drainage system. All drainage from the parking area will be treated in water quality inlets and/or gas and oil separators prior to discharge. The project will also comply with the Department of Environmental Protection Stormwater Management Policy guidelines for redeveloped sites. The landscaping plan, together with the construction of the two new structures closer to Highland Avenue and the placement of parking at the rear of the site, will enhance the aesthetics of the site.
- 1.20 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets and the location of driveway openings in relation to traffic or to adjacent streets has been assured. Currently a total of nine access points service the site with four on Second Avenue, two on Highland Avenue and three on Highland Terrace. Three existing curb cuts and driveway entrances on Highland Terrace are being eliminated. In addition, three curb cuts and driveway entrances on Second Avenue in proximity to the Highland Avenue intersection are being eliminated. Finally, the curb cut and driveway entrance on Highland Avenue in proximity to the Highland Avenue intersection will be eliminated. Such steps are anticipated to improve the safety of access to and egress from the site.

- 1.21 The site has been designed to accommodate the parking and loading operational requirements for the type of use proposed namely for specialty retailers, retail services and food service purposes. While more parking is required by the By-Law than is being provided, as discussed above, the amount of parking, as well as the arrangement, is proper and appropriate in relation to the proposed use of the premises.
- 1.22 Adequate methods of disposal of refuse and other wastes resulting from the uses permitted on the site have been assured. As indicated on the plans and materials submitted herewith, the Petitioner is proposing to install a fenced-in 6 foot high cedar dumpster enclosure close to the center of the parking lot. Arrangements will be made to ensure that such wastes are stored in a safe and sanitary manner and removed on a timely basis.
- 1.23 The premises are located in a highly developed, mixed commercial and industrial area consisting of a variety of different buildings and uses. The site itself is presently fully developed and the changes proposed are anticipated to improve the look, feel and function of the site. Therefore, the proposed redevelopment of the premises is not anticipated to significantly affect the relationship of the premises to any community assets or any adjacent landscape, building or structures.
- 1.24 The premises is already fully developed and the modifications proposed are not anticipated to create any additional effects on Town resources. Furthermore, the use of the proposed building for retail, retail service and food service purposes is consistent with the general commercial purpose of the Highland Commercial-128 zoning district as well as current and past uses in the area. Therefore, no significant additional impacts are anticipated on the Town's resources in connection with the redevelopment and use of the premises as proposed.
- 1.25 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted in the Highland Commercial-128 zoning district, if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds that the proposed development Plan, as conditioned and limited herein for the site plan review, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements, to have minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.
- 1.26 Under Section 3.2.4.2 (h) of the By-Law, a Special Permit may be granted to allow the off-street parking of vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.27 Under Section 3.2.5.2(j) of the By-Law, a Special Permit may be granted to allow a Special Permit for a take-out food counter as an accessory to a food retail or other non-consumptive retail establishment, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned

and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.

- 1.28 Under Section 3.2.5.2(l) of the By-Law, a Special Permit may be granted to allow a Special Permit for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.
- 1.29 Under Section 3.2.5.2(m) of the By-Law, a Special Permit may be granted to allow a Special Permit for a fast-food establishment offering over-the-counter sale of on/off premises prepared food or beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers, provided the Board finds that the proposed use is in harmony with the general purposes and intent of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law and to comply with all applicable By-Law requirements.
- 1.30 Under Section 4.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 4.5(6) (Setback requirement from a General Residence zoning district line) may be granted in the Highland Commercial-128 zoning District provided that the setback will not be less than twenty (20) feet and further provided that the Board finds the proposed use is in harmony with the general purposes and intent of the By-Law. The Petitioner has indicated that the setback for the proposed building will be 24 feet from the General Residence zoning district line. On the basis of the above findings and conclusions, the Board finds the proposed development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.
- 1.31 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Design Requirement) may be granted provided the Board finds that owing to special and unique circumstances, the particular use, structure or lot does not warrant the application of certain design requirements and that a reduction in the number of spaces from 127 to 97 is warranted. On the basis of the above findings and conclusions, the Board finds that there are special and unique circumstances justifying the reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 4-0 to GRANT: (1) a Major Project Site Plan Special Permit under Section 7.4 of the By-Law; (2) a Special Permit under Section 3.2.4.2 (h) of the By-Law for the off-street parking of vehicles associated with a principal use located on a lot that comprises land in two or more districts where the use is not otherwise allowed in the district in which the parking is to be located; (3) a Special Permit under Section 3.2.5.2 (j) of the By-Law for a take-out food counter as an accessory to a food retail or other non-consumptive retail establishment; (4) a Special Permit under Section 3.2.5.2 (l) of the By-Law for a take-out

establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere; (5) a Special Permit under Section 3.2.5.2 (m) of the By-Law for a fast-food establishment offering over-the-counter sale of on/off premises prepared food or beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers; (6) a Special Permit under Section 4.5 of the By-Law to reduce the setback from a General Residence zoning district line to not less than twenty (20) feet; (7) a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the off-street parking requirements of Section 5.1.2 and Section 5.1.3 of the Zoning By-Law; (8) further site plan approval in accordance with Special Permit No. 99-1, Section 4.2 as shown on the Plan, subject to the following plan modifications, conditions and limitations.

PLAN MODIFICATIONS

Prior to the issuance of a building permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected, or modified information. The Building Inspector shall not issue any building permit nor shall he permit any construction activity on the site to begin on the site until and unless he finds that the Plan is revised to include the following additional corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Inspector. Where approvals are required from persons other than the Building Inspector, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Inspector before the Inspector shall issue any building permit or permit for any construction on the site. The Petitioner shall submit nine copies of the final Plans as approved for construction by the Building Inspector to the Board prior to the issuance of a Building Permit.

- 2.0 The Plan shall be modified to include the requirements and recommendations of the Department of Public Works for review and comment, and to the Board for approval and endorsement. All requirements and recommendations of the Department of Public Works, set forth below, shall be met by the Petitioner.
 - a) No Plan modifications are required.
- 2.1 The Plan shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement. The Petitioner shall meet all requirements and recommendations of the Board, set forth below.
 - a) A floor plan for Panera Bread shall be provided showing a total of 130 seats for on-site food consumption with 120 seats provided inside the facility on a year round basis and 10 provided outside on a seasonal basis.
 - a) The elevation drawing (Exhibit 19), landscape plan (Exhibit 16) and site lighting plan (Exhibit 16) shall be revised to reflect the changes shown on the final approved Plan (Exhibit 15). A new plan set comprising plan sheets revised pursuant to this decision and plan sheets remaining unchanged shall be issued.
 - b) A detail of the decorative fence shall be added to the plan.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.38 hereof.
- 3.1 That the building, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan, as modified by this decision. Any changes, revisions or modifications to the Plan, as modified by this decision, shall require approval by the Board.
- 3.2 That the proposed building and support services shall contain the dimensions and shall be located on that portion of the locus exactly as shown on the Plan, as modified by this Decision, and in accordance with the applicable dimensional requirements of the By-Law. That within the building located adjacent to Second Avenue 8,020 square feet shall be used exclusively for general retail purposes and 4,800 square feet shall be used exclusively by Panera Bread for a fast-food restaurant. That the second building located adjacent to Highland Terrace and containing 10,628 square feet shall be used exclusively for general retail purposes. Any changes, revisions or modifications to the Plan, as modified by this decision, shall require approval by the Board.
- 3.3 That the following uses shall not be permitted in either of the buildings, notwithstanding anything contrary contained in the By-Law, Section 3.2.5: (1) all sit down food and beverage restaurants; (2) all fast food pick up and/or delivery restaurants, excepting Panera Bread; (3) all sports clubs and/or athletic merchandise stores; (4) all convenience markets; (5) all pharmacy stores; (6) all banks; and (7) all video rental stores.
- 3.4 That the use of the property by Panera Bread shall be that of a hundred thirty (130) seat fast-food restaurant offering over-the counter sale of on/off premises prepared food or beverage primarily intended for immediate consumption and prepared in such a manner as to be readily eaten from disposable containers. The sale of food, beverages and bakery for take-out as accessory to the fast-food use shall be permitted.
- 3.5 That the fast-food restaurant (Panera Bread) shall contain the floor plan and dimensions and shall be located on that portion of the locus as shown on the Plan, as modified by this Decision, and in accordance with applicable dimensional requirements of the By-Law. Minor movement of fixed equipment, interior partitions or seating is of no concern to the Board. Any changes, revisions or modifications other than changes deemed "minor movement" to the Plan, as modified by this decision, shall require approval by the Board.
- 3.6 That the fast-food restaurant (Panera Bread) shall contain no more than 130 seats for on-site food consumption and two take-out stations.
- 3.7 That the Petitioner may operate the fast-food restaurant (Panera Bread) with accessory take-out and bakery capability seven (7) days a week, between 5:00 a.m. and 11:30 p.m., Monday through Sunday.
- 3.8 That the Petitioner may utilize for the Panera Bread operation the services of not more than 6 employees at any one time during the period of 5:00 a.m. to noon, not more than

- 13 employees at any one time during the period of noon to 1:30 p.m., and not more than 7 employees at any one time during the period of 1:30 p.m. to 11:30 p.m.
- 3.9 That all cooking facilities for the fast-food restaurant (Panera Bread) shall be properly vented so as not to create any disturbing odors. The Petitioner shall install and maintain an emission control system to remove smoke and greasy odors from kitchen emission so that only clean air is exhausted in full compliance with federal and state requirements. There shall be provision for disposal of refuse, which shall be removed on a timely basis.
- 3.10 That this Special Permit to operate the Panera Bread fast-food restaurant at 100-126 Highland Avenue, is issued to Boston Bread, LLC, d/b/a/ Panera Bread, c/o Steven J. Patterson, Esq., Nutter, McClennen & Fish, LLP, 155 Seaport Blvd., Boston, MA 02210, and may not be transferred, set over, or assigned by Boston Bread, LLC, d/b/a/ Panera Bread, c/o Steven J. Patterson, Esq., Nutter, McClennen & Fish, LLP, 155 Seaport Blvd., Boston, MA 02210, to any other person or entity without the prior written approval of the Board following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.11 That each tenant shall be fitted with a door opening onto Highland Avenue and shall provide active pedestrian access to the respective establishment from such Highland Avenue entrances. However, in the event however, that said requirement proves not feasible for an individual tenant the Planning Board may waive the requirement following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.12 That all buildings and land constituting the premises shall remain under a single ownership.
- 3.13 That sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this Decision, and that there shall be no parking of motor vehicles off the locus at any time except in designated legal on-street parking areas. The leasing plan shall not allow the allocation of parking spaces to tenants in excess of the available number.
- 3.14 That 97 parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this Decision. All off-street parking shall comply with the requirements of Section 5.1.3 of the By-Law, except as otherwise waived by this Decision.
- 3.15 That all required handicapped parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words "Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed At Owners Expense". The quantity & design of spaces, as well as the required signage shall comply with the M.S.B.C. 521 CMR Architectural Access Board Regulation and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.16 That all new utilities, including telephone and electrical service, shall be installed underground from the street line, and that the proposed new sidewalk on Highland Avenue shall be built to Town of Needham specifications.

- 3.17 That the Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if applicable.
- 3.18 That the Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit, if applicable.
- 3.19 That the Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges.
- 3.20 That the Petitioner shall connect the sanitary sewer line only to known sources. All sources which cannot be identified shall be disconnected and properly sealed.
- 3.21 That the construction, operation and maintenance of the on-site catch basins and pavement areas, shall conform to the requirements outlined in the EPA's Memorandum of Understanding signed by the Needham Board of Selectmen.
- 3.22 That the Storm Water Management Policy form shall be submitted to the Town of Needham signed and stamped and shall include construction mitigation and an operation and maintenance plan as described in the policy.
- 3.23 That all solid waste shall be removed from the site by a private contractor. Snow shall also be removed or plowed by private contractor. That all snow shall be removed or plowed such that the total number and size of parking spaces are not reduced.
- 3.24 That all deliveries and trash pick up shall occur only between the hours of 8:30 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. That all deliveries shall be made solely from the parking lot area and shall not be made from any of the surrounding roadways. Notwithstanding the above restriction, Panera Bread shall be allowed to accept deliveries immediately adjacent to their parking lot entry, up to two evenings per week, between the hours of 6:00 p.m. and midnight, Monday through Saturday.
- 3.25 The trash shall be picked up no less than two times per week. All trash receptacles shall be located at the rear of the property and shall be screened by fencing as shown on the Plan. Additional trash receptacles shall be provided if required and the area shall be kept free of litter from the restaurant operation. The dumpster shall be emptied daily, cleaned and maintained to meet Board of Health Standards.
- 3.26 That all parking lot maintenance, with the exception of snow plowing, seal coating and pavement restriping, shall occur only between the hours of 8:30 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays.
- 3.27 That all lights shall be shielded and adjusted during the evening hours to prevent any annoyance to the neighbors. That the Petitioner shall reduce its parking lot and exterior building lighting during the night with that reduction remaining in effect until the following morning. That Monday through Sunday some time between the hours of 11:00 p.m. and 12:00 a.m. (midnight), the Petitioner shall shut off its parking lot lights using the lights on the building to shine down and provide basic security.
- 3.28 That in constructing and operating the proposed building on the locus pursuant to this Special Permit, due diligence be exercised and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.

- 3.29 That excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the site, shall be removed from the site.
- 3.30 That all construction staging shall be on-site. No construction parking will be on public streets. Construction parking shall be all on site or a combination of on-site and off-site parking at locations in which the Petitioner can make suitable arrangements. Construction staging plans shall be included in the final construction documents prior to the filing of a Building Permit and shall be subject to the review and approval of the Building Inspector.
- 3.31 That the following interim safeguards shall be implemented during construction:
- a. The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
 - b. The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site, which require excavation or otherwise pose a danger to public safety.
 - c. The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Inspector and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Highland Avenue and Second Avenue.
 - d. The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Highland Avenue and Second Avenue clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.32 That no building permit, other than a demolition permit, shall be issued in pursuance of the Special Permit and Site Plan Approval until:
- a. The final plans shall be in conformity with those approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.
 - b. A construction management and staging plan shall have been submitted to the Police Chief and Building Inspector for their review and approval.
 - c. The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.33 That no building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:

- a. An as-built plan, supplied by the engineer of record certifying that the on-site and off-site project improvements were built according to the approved documents, has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site and off-site, in their true relationship to the lot lines. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor.
 - b. That there shall be filed with the Building Inspector and Board a statement by the Department of Public Works certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalks and curbing improvements on-site and off-site, have been constructed to the standards of the Town of Needham Department of Public Works and in accordance with the approved Plan.
 - c. That there shall be filed with the Board and Building Inspector a Certificate of Compliance signed by a registered architect upon completion of construction.
 - d. That there shall be filed with the Board and Building Inspector an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations. Said plan shall be prepared by the engineer or landscape architect of record and shall include a certification that such improvements were completed according to the approved documents.
 - e. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the building prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.
- 3.34 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions or other agencies, including, but not limited to, the Board of Selectmen, Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.35 That the building or structure authorized for construction by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Inspector.
- 3.36 The Petitioner, by accepting this permit decision, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, that this information is true and valid to the best of the Petitioner's knowledge.
- 3.37 Petitioner shall implement the following maintenance plan:
- a. Parking lot sweeping - sweep twice per year; once in spring after snowmelt, and early fall.

- b. Catch basin cleaning - inspect basins twice per year; in late spring and fall. Clean basins in spring.
 - c. Oil/grit separators - inspect bi-monthly and clean four times per year of all oil and grit.
- 3.38 Violation of any of the conditions of this Special Permit shall be grounds for revocation of this Special Permit, or of any building permit granted hereunder. In the case of violation of the continuing obligations of this permit, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Owner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Owner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of the Special Permit. As an alternative, the Town may enforce compliance with the conditions of this permit by an action for injunctive relief before any court of competent jurisdiction. The Owner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this permit.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site and off-site improvements, which are the subject of this petition. All construction to be conducted on-site and off-site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this decision.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend or supplement, this decision and to take other action necessary to determine and ensure compliance with the decision.
- 4.3 This decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this decision.
- 4.5 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.6 This Site Plan Special Permit shall lapse on January 24, 2008, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to January 24, 2008. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun, except for good cause.

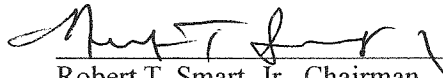
- 4.7 Reference to this decision shall be entered upon the Plan, and this approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit shall not take effect until a copy of this decision bearing the certification of the Town Clerk that twenty (20) days have elapsed after the Decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry of Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

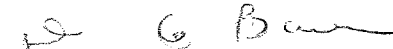
The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown of the Plan, as modified by this decision, in full force and effect for the benefit of and enforceable by the Town of Needham.

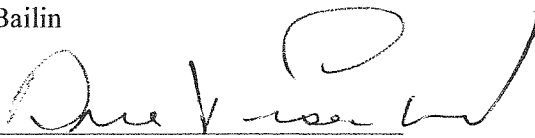
Any person aggrieved by this decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this decision with the Needham Town Clerk.

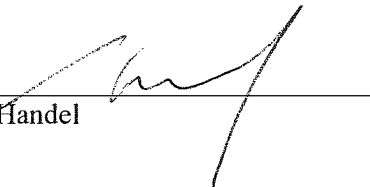
Witness our hands this 24th day of January 2006.

NEEDHAM PLANNING BOARD


Robert T. Smart, Jr., Chairman


Devra G. Bailin


Bruce T. Eisenhut


Maurice P. Handel

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

January 24 2006

On this 24th day of January, 2006, before me, the undersigned notary public, personally appeared Robert T. Smart, Jr., one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was in the form of a state issued drivers license, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.


Notary Public

My Commission Expires: MAY 15, 2009

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the decision on Needham Gateway LLC, 66 Cranberry Lane, Needham, MA 02492, and Boston Bread, LLC, d/b/a/ Panera Bread, c/o Steven J. Patterson, Esq., Nutter, McClennen & Fish, LLP, 155 Seaport Blvd., Boston, MA, has passed, and there have been no appeals made to this office. (All Judicial Appeals taken from this decision have been dismissed.)

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner - Certified Mail #
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission
Board of Selectmen
Engineering
Fire Department
Police Department
George Giunta, Jr.
Parties In Interest

From: [Tara Gurge](#)
To: [Alexandra Clee](#)
Subject: RE: Public Health Comments Re: - 100 and 120 Highland Ave. ("Needham Gateway") amendment
Date: Wednesday, June 9, 2021 1:06:09 PM
Attachments: [image002.png](#)
[image003.png](#)

Alex –

Here are the Public Health Division comments for the proposed Planning Board amendment for 100 and 120 Highland Ave., below-

The Public Health Division has no comments at this time.

Please let me know if you need any additional information from us on that.

Thanks,



TARA E. GURGE, R.S., C.E.H.T., M.S.
ASSISTANT PUBLIC HEALTH DIRECTOR
Needham Public Health Division
Health and Human Services Department
178 Rosemary Street
Needham, MA 02494
Ph- (781) 455-7940; Ext. 211/Fax- (781) 455-7922
Mobile- (781) 883-0127
Email - tgurge@needhamma.gov
Web- www.needhamma.gov/health



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[Follow Needham Public Health on Twitter!](#)

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, June 8, 2021 2:56 PM
To: David Roche <droche@needhamma.gov>; Anthony DelGaizo <ADelgaizo@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

Cc: Lee Newman <LNewman@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>

Subject: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment

Dear all,

The Planning Board will be hearing about a proposal for an amendment to the existing permit at 100 and 120 Highland Avenue on June 29, 2021. More information is included in the submitted documents, detailed below, which are attached to this email.

(some of you will receive a hard copy in the inter-office mail as well).

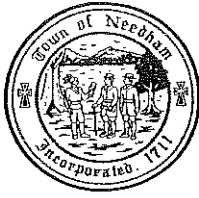
The documents attached for your review are:

1. Application submitted by Needham Gateway LLC. *attached*
2. Rider A to Application. *Attached.*

The Planning Board has scheduled this hearing for June 29, 2021. If you wish to comment, please submit your comment by Wednesday June 23, 2021 (at the latest), so that the Petitioner has time to address any concerns or questions in advance of the hearing.

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Town of Needham
500 Dedham Avenue
Needham, MA 02492
781-455-7550 Ext 271
Needhamma.gov



**TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023**

June 24, 2021

Needham Planning Board
Needham Public Service Administration Building
Needham, MA 02492

RE: Major Project Site Plan Special Permit Amendment 2005-07
Needham Gateway- 100 and 120 Highland Avenue

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced request for an Amendment to the Major Project Site Plan Special Permit Amendment 2005-07 decision. The applicant requests to modify the decision to delete section 3.3 and substitute new language to allow the applicant more flexibility in leasing space to businesses. No site work is proposed in this amendment.

The review was conducted in accordance with the Planning Board's regulations and standard engineering practice. The documents submitted for review are as follows:

1. Application for Amendment dated June 3, 2021
2. Rider A description of request and suggested Amendment to MPSP 2005-07

Our comments and recommendations are as follows:

- We have no comment or objection to the request

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Thomas Ryder
Assistant Town Engineer

From: [Dennis Condon](#)
To: [Alexandra Clee](#); [John Schlittler](#)
Cc: [Lee Newman](#)
Subject: RE: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment
Date: Tuesday, June 29, 2021 12:34:15 PM
Attachments: [image001.png](#)
[image002.png](#)

No

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: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, June 29, 2021 10:24 AM
To: Dennis Condon <DCondon@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>
Subject: FW: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment

Do you have any comments for this hearing which will be tonight?

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

From: Alexandra Clee

Sent: Tuesday, June 22, 2021 9:43 PM

To: Anthony DelGaizo <ADelgaizo@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>

Cc: Lee Newman <LNewman@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>

Subject: FW: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment

Hi there,

Just a reminder to send in your comments by tomorrow on this project.

Thanks!

Alexandra Clee

Assistant Town Planner

Needham, MA

www.needhamma.gov

From: Alexandra Clee

Sent: Tuesday, June 8, 2021 2:56 PM

To: David Roche <droche@needhamma.gov>; Anthony DelGaizo <ADelgaizo@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

Cc: Lee Newman <LNewman@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>

Subject: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment

Dear all,

The Planning Board will be hearing about a proposal for an amendment to the existing permit at 100 and 120 Highland Avenue on June 29, 2021. More information is included in the submitted documents, detailed below, which are attached to this email.

(some of you will receive a hard copy in the inter-office mail as well).

The documents attached for your review are:

1. Application submitted by Needham Gateway LLC. *attached*
2. Rider A to Application. *Attached.*

The Planning Board has scheduled this hearing for June 29, 2021. If you wish to comment, please submit your comment by Wednesday June 23, 2021 (at the latest), so that the Petitioner has time to

address any concerns or questions in advance of the hearing.

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Town of Needham
500 Dedham Avenue
Needham, MA 02492
781-455-7550 Ext 271
Needhamma.gov

From: [John Schlittler](#)
To: [Dennis Condon](#)
Cc: [Alexandra Clee](#); [Lee Newman](#)
Subject: Re: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment
Date: Tuesday, June 29, 2021 12:50:36 PM
Attachments: [image001.png](#)
[image002.png](#)

No issues from the police

Sent from my iPhone

On Jun 29, 2021, at 12:34 PM, Dennis Condon <DCondon@needhamma.gov> wrote:

No

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov
<[image001.png](#)>

Follow on Twitter: Chief Condon@NeedhamFire

<[image002.png](#)>

Watch Needham Fire Related Videos on YouTube @ Chief Condon

<[image003.jpg](#)>

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, June 29, 2021 10:24 AM
To: Dennis Condon <DCondon@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>
Subject: FW: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment

Do you have any comments for this hearing which will be tonight?

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
www.needhamma.gov

From: Alexandra Clee
Sent: Tuesday, June 22, 2021 9:43 PM
To: Anthony DelGaizo <ADelgaizo@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>
Cc: Lee Newman <LNewman@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>
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Cc: Lee Newman <LNewman@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>
Subject: Request for comment - 100 and 120 Highland Ave ("Needham Gateway") amendment

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Thanks, alex.

Alexandra Clee
Assistant Town Planner
Town of Needham
500 Dedham Avenue
Needham, MA 02492
781-455-7550 Ext 271
Needhamma.gov

From: [McKee, Ryan](#)
To: [Alexandra Clee](#); [Lee Newman](#)
Cc: sweet.ton@gmail.com
Subject: Frank Webb Building
Date: Monday, June 28, 2021 6:28:44 AM

Alexandra & Lee,

Good Morning. I hope that this note finds you well. I live in the Riverside Park Neighborhood at 18 Highview Street with my Family. I understand that, with Frank Webb moving, the Panera Bread shopping center is applying to get relief regarding their lease restrictions. I understand their need to make adjustments to allow for some flexibility for re-leasing the property, but I would just ask that the board considering the abutting neighborhood in granting any relief and this relief be somewhat limited in nature. Anything with outdoor seating/music will likely prove to be disrupting the abutting neighborhood and respective Families. Anything with food/dumpsters creates additional risks of pests/garbage. Furthermore, this property has historically had trouble with parking even when it was leased by low-traffic tenants so anything that increases traffic and turnover seems likely to exacerbate the issue. Thank you for your consideration and attention to this.

Take care,
Ryan & Tonya McKee
18 Highview Street, Needham, MA

[To schedule a Call or Zoom with Me, click here](#)

Ryan K. McKee CIMA®
Regional Director
Fidelity InstitutionalSM
[500 Salem Street](#) OS1N2
[Smithfield, RI 02917](#)
Mobile #: [617.699.3294](#)
Text #: [617.855.0072](#)
Fax #: [401.292.1248](#)
E-Mail: ryan.mckee@fmr.com

For immediate assistance please contact my internal partner Laura Kane at [800.544.9999 x49953](tel:800.544.9999) or laura.kane@fmr.com

For immediate assistance with scheduling please contact Brian Lupo at [909.328.1022](tel:909.328.1022) or brian.lupo@fmr.com

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From: [Diane Abbott](#)
To: [Lee Newman](#); [Alexandra Clee](#)
Subject: New zoning Panera Bread
Date: Monday, June 28, 2021 7:28:03 PM

Good evening,
My name is Diane Abbott at 69 Highland Terrace, Needham.

I've learned that FW Webb will be moving from the complex with Panera Bread to the end of my street. My concern is that a restaurant maybe allowed to go into there current location. This area has limited parking as it was given a variance when the buildings were built. This location is not appropriate for a restaurant that will operate later than 9pm, increase the number of dumpsters and their pick up and outdoor noise from outdoor dinning or the opening of doors allowing music out in the evening. This location abuts a neighborhood where families want to sleep in quite by 10pm all nights and not be woken by dumpster smells or pickup.

The exit from the parking lot onto Highland Ave is very dangerous to any car entering or leaving my neighborhood as people to not think there is a residential road so close to that exit. This issue will only increase with the changes to Highland Ave since people will want to get out quickly ahead of on coming cars from the intersection.

The board respected the neighbors when this location was first constructed and as the neighborhood has not changed, I would hope the board would respect our lives again and not allow a restaurant into this location.

Regards

Diane Abbott

From: bugout6@gmail.com
To: [Alexandra Clee](#)
Subject: RE: Needham Gateway
Date: Monday, June 28, 2021 7:29:50 PM

I write you to register my opposition to changing the Needham Gateway permit to include restaurants. I live at 68 Riverside St. in Needham. The residential character of our entire neighborhood stands to be quite adversely impacted by this particular proposed change. It's not fair or wise to contort the original agreement in a way that will clearly cause the Needham residents here to feel that they are living in a food court. Multiple restaurants encircle us here, and this proposal will abut us directly and create sound, light and traffic effects that no one wants where they live.

- Joe and Eileen Manning

--

Sent from Gmail Mobile

From: [Robert Deutsch](#)
To: [Alexandra Clee](#); [Lee Newman](#)
Cc: [Ryan McKee](#); [Tonya](#); [Janice Epstein](#); [Samson Chu](#); [lihwen lin](#); [Emily Keller](#)
Subject: Restaurant/Bar at Frank Webb
Date: Monday, June 28, 2021 11:54:22 PM

Dear Town of Needham:

It is neither practical nor profitable to complain that anything on the Newton side of 128 is not afforded the same rights as anything on Needham side, since it is a kind of geographical prejudice that the town government either can't recognize or is actively choosing to ignore.

The pattern is strong: marijuana dispensaries, porn zoning, the first liquor stores, anything that 'should be away from people' should be located here. And now here comes a restaurant and bar where the bath store was.

I understand that the need to continually power Needham's economic engine is an ongoing struggle, and that businesses bring tax revenue, and are vital for....well, the vitality of the town.

But our little corner of paradise, here in ol Precinct J, Riverside Park, has felt the onslaught of 'progress' that includes putting up huge apartment buildings that required clearcutting trees, from our back, to the east and west, and now at the trail.

Those apartments in turn, have tried to place dog runs, police-level spotlights, and other unpleasanties in our backyards.

We are about to feel the overwhelm of the two-year project to rebuild the street outside that connects to the world, inviting Northland and so many lanes of traffic that we have to explain to the senior leaders at DOT what it's like to wait three minutes to make a left turn is like, since they don't realize they are consigning us to a seven and a half-minute wait when they're done.

Adding a restaurant in the center of town, or in the Heights where there are already restaurants, dumpsters, noise, people, cars, that's not a big deal. And truly, when you think there could be a nice place you could walk to, it has an appeal to it.

But more often than the fantasy, the reality is that adding it here has the potential to be disruptive for all the reasons that restaurants disrupt quiet, sleepy little corners of towns: loud people, liquor, vermin, dumpsters, food delivery, garbage smells, parking violators, and you name it.

I ask of you— is this part of a plan to replace all the stores that have left the Panera mall? is there a plan? Because if there's not I recommend the Alcapulco site for the restaurant you have in mind. It's away from residential, zoned for restaurants and already has its own parking.

To recap— this letter does not seek to persuade, because I don't think there is a persuadable body. But without mitigation plans, or some kind of plan to keep out garbage from flying into the neighborhood (which Panera is currently failing at) I strongly object to more food service businesses of any kind in that mall.

Thanks,

Robert Deutsch
14 Highview Street
Needham MA
Precinct J

From: [Melanie Prescott](#)
To: [Alexandra Clee](#); lnewman@needham.gov
Subject: Needham gateway center highland ave
Date: Tuesday, June 29, 2021 3:33:03 PM

Hi

I am writing to express my opposition to the proposed changes to the current uses of this site. This building's setback is too close to the neighborhood to allow another restaurant to go in which I understand they are actively pursuing as a new tenant.

Parking is another issue. If outdoor seating is set up how many existing spaces would need to be utilized? Highland terrace could become the overflow parking lot of choice since this bldg directly abuts the street.

How can the existing dumpster setup handle another restaurant? Where would the main entrance be? How can they guarantee that noise, lights, from outdoor dining would not spill over to the neighborhood.

How far into the site does the current zoning for business use on this end of highland avenue extend? I am assuming that it does not extend as far on second Ave as the existing parking lot goes. If that is correct then how can they ask to have the same zoning uses without adequate parking?

Melanie Prescott
Riverside street

He questioned how they plan to prevent people from parking on the street. Mr. Ledine noted there will be a maintenance schedule for the dumpsters 5 to 6 times per week. This will have to be set up and can change accordingly. Mr. Giunta Jr. noted Panera Bread will be at the back of the site and it is unlikely people would park on Highland Terrace to pick up food. Melanie Prescott, of Riverside Street, questioned if the dumpster would be set up like Dedham. Mr. Ledine stated it will be fully enclosed with a steel gate 9 feet 4 inches high. The dumpster is 7 feet tall. They can adjust the frequency of emptying. Mr. Handel commented the number of employees may be a concern and they may park on Highland Terrace. Richard Epstein questioned if there would be a sidewalk and was informed yes. Ms. Kaponya questioned the length of construction in days and hours. Mr. Ledine noted 6 months from December until June possibly. Ms. Bailin informed her there is usually a limitation on days and hours.

John Negoshian, of South Street, asked why the plan changed. He feels 2 entrances on Second Avenue is a better idea and questioned why the dumpster is on the residential side. He would like the Board to give a waiver of 2 to 3 spaces and put the dumpsters on the Second Avenue side. Mr. Giunta Jr. stated he was made aware of concerns regarding traffic flow, particularly on Second Avenue. Highland Terrace was not an option. They are already asking for a significant waiver and this will take one or 2 spaces. If the Board wants it, they could consider it. Ms. Bailin noted there is an issue of whether they need more than one egress/access and if it is necessary. Mr. Handel commented with the dumpster moved they could have egress on Highland Terrace. Mr. Giunta Jr. stated ingress as well as egress is a concern. Ms. Epstein commented on the last attempt the dumpster was going in the middle of the site. They are still asking for a variance for setback – 50 feet down to 24 feet, parking and landscape. Mr. Giunta Jr. noted there is less than a 50 foot setback. The current building is only 12 feet. Currently there is almost no landscaping and they require 10%. They will have 6 – 7% landscape and a parking waiver of 20 spaces. Mr. Smart asked if there would be a covenant in the lease to prevent another restaurant and was informed there would be. Matt Talcoff noted he was in favor and wanted to clarify Mr. Handel would trade off the dumpster for access on Highland Terrace. Mr. Handel stated no but something may be mutually worked out. Mr. Talcoff commended the developer and the land owner for all their hard work. Mr. Negoshian stated he was in favor but does not like the alleyway to Highland Avenue. Mr. Bemis stated if the concerns could be addressed and there be no entrance/exit on Highland Terrace he was in favor. Martin Healy, representative for the 100 Second Avenue owner, noted they were in opposition. Second Avenue has serious traffic concerns. It is a major access point and there are serious problems. They should consider: Highland Terrace access, widening the street with a dedicated right hand in only, and out only on Highland Terrace at an appropriate location. This is overdevelopment of the site. He noted perhaps there should be more than one curb cut as it is a highly congested intersection. Ms. Bailin noted his client should realize Gold's Gym has on-street parking issues and perhaps they should bar on-street parking rather than ask this applicant to give up some land.

Mr. Smart noted the following correspondence for the record: a letter from the Fire Department with no comments; a letter from the Police Department with comments; an e-mail from the Town Engineer with comments and a letter from Melanie Prescott and Janice and Richard Epstein. He noted there is no current plan.

Upon a motion made by Ms. Bailin, and seconded by Mr. Eisenhut, it was by the four members present unanimously:
VOTED: to continue the hearing to December 13, 2005 at 7:30 p.m. and they should file information with the Planning Director at least one week in advance.

Mr. Killeen arrived.

Appointment

8:00 p.m. – George Giunta Jr., Proposed modification to off-site requirements: Major Project Site Plan Review Special Permit No. 02-02: Masala Restaurant, Sai Restaurant, Inc., (Property located at 990-994 Great Plain Avenue, Needham, MA).

Mr. Giunta Jr., representative for the applicant, noted the parking situation has improved. Housing has been secured for his staff. He noted they do not have 16 employees during the day, usually only 6, and all will be housed. They do not want to keep renting 16 spaces in the heights. Mr. Handel questioned if they were asking for relief. They are asking the Board to recognize the new arrangement and that spaces are no longer needed in the heights. They will send a copy of the lease and location of the apartments. Ms. Bailin stated she does not want to rely on unprofessional numbers from CURVES on parking. She is leery about going forward as it was so contested. Mr. Killeen noted he was alright with it

as long as they are not parking in the lot and are told where people are living. Mr. Handel noted they are deeming they are in compliance with other arrangements. Mr. Killeen stated there should be not more than 2 vehicles associated with this business parking behind. They are substituting off site parking. Ms. Bailin commented there should be a public hearing. Mr. Pupura, owner, stated he has only 6 employees, not 16. Ms. Bailin noted the public should hear. Reality is it is a very contested issue and they need to modify the Special Permit at a hearing. Mr. Smart stated the applicant is not asking to change the language. Mr. Giunta Jr. reiterated they want recognition alternate parking is arranged and employees cannot park downtown. Mr. Handel stated they should deem the proponents' solution equivalent and submit a letter.

Upon a motion made by Mr. Killeen, and seconded by Mr. Handel, it was by four of the five members present (Ms. Bailin voted in the negative):

VOTED: to move the Board make the request that the applicant submit a detailed letter identifying the locations that have been identified for residence by the employees, specifying that there is parking for any cars the employees may have available for those locations and stating that the requirement of our decision that employees be picked up at remote locations outside of the 2 business district mentioned in the decision be submitted and that upon submission the Board deem that to be satisfaction of the terms of the Special Permit related to the aforementioned parcel.

Request for performance bond reduction: 290 Grove Street Subdivision.

Ms. Newman stated they have a letter from the Board of Health for release of \$8,000. The DPW recommends the balance of the Performance Bond be released after notice to the abutters. A motion was made to grant release of the Board of Health surety in the amount of \$8,000 and release the Performance Bond held for roadway improvements for a total amount of \$52,000. Ms. Newman noted they should hold something back from the Performance Bond. A motion was made to change the previous motion to hold \$4,000 for preparation of the final plans.

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

VOTED: to grant release of the Board of Health surety in the amount of \$8,000 and release most of the Performance Bond held for roadside improvements but withhold \$4,000 for preparation of the final plans.

ANR Plan: Daniel J. DiSchino, 57 Washusett Road, Needham, MA, Petitioner (Property located at 49 Wachusett Road, Needham, MA).

Robert Smart left the room due to a conflict. Mr. Giunta noted this is 2 existing lots both with houses. The house on Lot One will come down. He is subdividing a piece out of Lot one and adding it to Lots A and B to create a new lot. Lots A and B were non-conforming lots. They now have 2 legal conforming lots.

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

VOTED: to endorse ANR.

ANR Plan: Beals and Thomas, Inc., 144 Turnpike Road, Southborough, MA, Petitioner (Property located on Assessors Map 300, Lot 10: former railroad right-of-way).

Mr. Smart returned to the meeting. Ms. Newman noted this has been created into a series of non-buildable parcels. This is the piece that is going with the Fourth Avenue site for the additional parking. Engineering is OK with the plan.

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

VOTED: to endorse ANR.

Ratification of Planning Board Budget for FY 2007.

Ms. Newman noted it was a balanced budget.

Report of the Planning Director and Board Members.

Ms. Newman noted tomorrow they will know about the Small Growth Grant. There may be an extra \$25,000 for a total of \$80,000. The MBTA has authorized a feasibility study on the heights parcel and they will pay for the study. She is looking at getting the Board some money for the downtown. She reminded them Town Meeting is Monday night.

Upon a motion made by Ms. Bailin, and seconded by Mr. Eisenhut, it was by the four members present unanimously:
VOTED: to adjourn the meeting at 9:05 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

A handwritten signature in dark ink, appearing to read 'Bruce Eisenhut', written over a horizontal line.

Bruce Eisenhut, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

December 13, 2005

The regular meeting of the Planning Board, held in the Performance Center at Broadmeadow School, was called to order by the Chairman, Robert Smart, on Tuesday, December 13, 2005 at 7:30 p.m. with Messrs. Eisenhut and Handel and Ms. Bailin present as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski. Mr. Killeen arrived at 9:10 p.m.

Public Hearings

7:30 p.m. – Major Project Site Plan Review Special Permit No. 2005-07: Needham Gateway, LLC, 66 Cranberry Lane, Needham, MA, Petitioner (Property located at 100, 120 and 126 Highland Avenue and 54 Second Avenue, Needham, MA).

George Giunta Jr. recapped the first hearing and noted concerns regarding traffic related to the flow of traffic on Second Avenue and the impact this project will have on traffic. They have sat with the abutters and did a couple of different creative options. He noted they feel the best way to make modifications to the proposed design of the project is the access driveway location. He gave an overview. This is 82,526 square feet with 255 feet of frontage. 58% is in the Highland Avenue/128 District corridor and 42% is in the New England Business District. The dimensional controls in the 58% district apply and they meet or exceed all requirements. There will be 2 separate buildings. The first is on the corner of Second and Highland Avenue and is 12,600 square feet. The other is on the corner of Highland Terrace and Highland Avenue and is 11,084 square feet. There is 30% lot coverage and FAR is .29. There is a reduction in the square footage proposed of 1,229. Of the 23,000 square feet, 18,884 will be retail and 4,800 will be restaurant. Panera Bread will have 180 seats and 2 take-out stations. They meet the setbacks except one – a 50-foot buffer in the left rear corner. They are 26.92 feet away from the boundary but this could be waived. They feel it is the most appropriate design. The parking along Second Avenue should be 10 feet away from the line but they are only 7 feet. They will lose interior parking and feel it is reasonable to waive. Most are full size parking spaces. There will be 85 full and 11 compact. Chad Tundeen, the architect, noted the buildings have stayed the same. There will be awnings in the front and back and a stucco like material, which will be beige and natural light tones. Tenants can use their own colors. There will be a cut-through between the 2 buildings. There will be an exit only drive onto Highland Avenue with landscaping. There is no landscaping currently and they propose substantial new landscaping which meets or exceeds the by-law requirements. Mr. Giunta Jr. noted it will be brought into compliance. There will be 3 points of access to the property. Giles Ham, of Vanasse and Associates, noted it will be 24,000 square feet of retail and 15,000 square feet of commercial. They have 64 spaces for Panera Bread and only need about 40. The 96 spaces provided they feel is fine. They met with the abutters, Mass Highway and the DPW. There are a lot of curb cuts – presently approximately 9 -- and they need to minimize these. They are moving the curb cuts back from the signal. The Second Avenue curb cut is 375 feet back from Second Avenue. There will be a right turn in off Highland Avenue entrance only and 200 feet back on Highland Terrace an exit only. They have had a lot of meetings and time taken on the plan. It is very workable and has been approved by Mass Highway.

Ms. Bailin noted there were no details on the backup on Second Avenue and questioned if they had numbers. Mr. Ham stated it goes well beyond the drive between 3:30 and 5:30. Ms. Bailin asked if Mass Highway approved the curb cuts in and out, if a right in and right out were considered and if they had shown Mass Highway any plan with a right in and a right out on Highland Avenue. Mr. Ham noted they could have a right out. Ms. Bailin noted her concern with the backup on Second Avenue and if this property will be used as a cut through. She asked if this had been analyzed. Mr. Ham stated they need to monitor this. They have talked about it and will investigate the use of a gate to limit time. Mr. Giunta Jr. noted they will not have access from perhaps 8:00 p.m. to close. They will have the gate on a timer so it comes down. Ms. Bailin commented that seems late and perhaps it should be 6:00 or 6:30. Mr. Giunta Jr. stated 6:30 or 7:00 may be feasible. Mr. Handel questioned if the design for the Highland Terrace exit discourages right turns. Mr. Hamm stated they will have signage and a geometrical turn left to force it. Mr. Handel questioned if the Highland egress was sufficient to discourage a left turn from Highland Avenue. Mr. Ham stated they are doing the best they can but if people want to turn they will but they are trying to discourage it. They will be reasonable with the timing of the gate. Mr. Eisenhut questioned

if they will have a pedestrian friendly sidewalk on Highland Terrace. Mr. Giunta Jr. stated they will put in a sidewalk with handicap accessible ramp on either side of the drive with sidewalks wrapping around into the site. Mr. Eisenhut asked if material would delineate across the drive. Mr. Giunta Jr. noted it could be striped. The Berejiks' would be happy to do brick. The intent is to curve the drive out to Highland Terrace. Mr. Handel questioned if the location of the dumpster had changed and was informed it had. Mr. Smart questioned how many cars they could fit between Highland Avenue and the Highland Terrace access. Mr. Ham noted about 10 cars. Mr. Smart questioned if there was a reason the gate needs to be open before 4:00 p.m. Mr. Ham stated they do not want it opening and closing. They want to close it once. He noted Tony DelGaizo made some suggestions. Mr. Smart questioned their peak hours of Panera Bread. The peak is 11:30 to 2:00 and it drops off at dinner. Ms. Newman questioned the hours and number of employees.

Mr. Giunta Jr. noted a cut through is not a good thing for the project and is as much a concern of theirs as the Board's. They could do a gate at different times or have a security guard off and on. The signage will be clear. Matt Talcoff, an abutter, asked if there would be a sign on top of Highland Terrace saying no shop access and was informed there will be. Mike Moskowitz noted there will be a no truck sign on Highland Terrace also. Mark Ruskin asked if there would be any other businesses and was informed Joseph Banks clothing, Omaha Steak, children's clothing and sports outlets. It will all be upscale. Tom Bemis, of 30 Highland Terrace, noted it is against the law to have an exit from commercial onto residential property. Mr. Giunta Jr. noted he was not aware of any state statute and stated the egress is zoned commercial. John Negoshian, of South Street, noted Highland Terrace is zoned commercial 200 feet back per Ms. Newman but the drive is 250 feet back. Mr. Handel stated it is within the commercial district. Mr. Tundeen noted it is 150 feet from Highland Avenue to the drive. Mr. Negoshian stated he is an abutter but did not get contacted until Saturday night. He should have heard earlier. He asked if Mr. Ham had spoken with Mass Highway and gotten a response regarding a left hand exit on Highland Avenue. Mr. Ham stated he had talked with Mass Highway and noted they did not deny it but did not support it. They prefer this. Mr. Negoshian commented they had looked into a curved exit to the left but he feels this will promote people not stopping. Mr. Ham informed him there will be a stop sign, stop bar and cross walk. Mr. Negoshian commented they have a chance to make the building smaller and moving the exit drive closer to Highland Avenue. Mr. Giunta Jr. noted with the consideration of a gate it will be closed at night. Mr. Ham stated they have tried to keep it as far away from Highland Avenue for safety reasons. Mr. Smart questioned if there would be screening between the exit and the abutters. Mark Koenig stated there would be 8 foot high fencing with landscaping and they would work with Mr. Negoshian on the issue. Mr. Negoshian stated 5 feet is not enough, they can do better than that. Cambridge Soundworks is 40 feet away and there is plenty of room to move the drive over. He wants a different exit from Highland Terrace and the parking lot onto Highland Avenue. Richard Epstein questioned if the goal was to relieve stress on Second Avenue and was informed the idea was to not increase stress. Mr. Epstein proposed gating from 8:00 p.m. Friday to 6:00 a.m. Monday. Mr. Ham stated they did not think there would be a big queue on Highland Terrace but his development team could work with this. Mr. Smart asked if they would agree to a 4:00 to 6:00 Monday through Friday only condition. Mr. Ham noted they need to look at this. They need it open during the day but are willing to look at weekends. Mr. Moskowitz stated he has no problem with weekend and no problem cutting it down but it needs more analysis. Mr. Negoshian stated they should go out to Highland Avenue not Highland Terrace and they should eliminate the road. Tom Bemis asked if there would be sign inside the lot that it is a right turn only. Robert Deutch questioned how this project would affect the add-a-lane project. Mr. Ham noted Highland Avenue is still busy. Things here are better and safer because of what they have done.

Mark Brash, of Hunnewell Street, noted he bought next to a business district. It is a benefit to the town. He would rather see a thriving business site rather than an abandoned site. It is a benefit. Mr. Negoshian stated he is in favor. It is wonderful but they have not downsized at all. They should downsize more but he wants it to happen. Mr. Deutch stated he is in favor. He likes Panera and feels it is an excellent addition and he is happy with the new plan. Matt Talcoff noted it is a great development. They worked hard and he appreciates the honesty from the developers. This is great for the town and is a difficult lot. Richard Epstein stated he is in favor. The concept is great and it looks good on paper. Elizabeth Kaponya stated it is a great project. She added there was a basketball hoop there and does not want another one for games. Mr. Moskowitz stated there will not be any other hoops there. Mr. Bemis stated he is only in favor with no access on Highland Terrace. Mr. Negoshian reiterated people will take a left even if it is right turn only. Debra Negoshian stated she has concerns with the neighbors and children in the neighborhood. It is a dangerous egress.

Mr. Smart noted the following correspondence for the record: a letter from Giles Ham to Mark Moskowitz dated 12/6/05 with traffic information; a letter from the Fire Department stating the drives must be 18 feet; it was noted there was a recommendation from the DPW for 16 foot drives plus 5 foot sidewalks but nothing in writing; and a letter from David Tempesta, owner of 12 Highland Terrace, who is opposed to an opening on Highland Terrace. Ms. Bailin suggested they leave the hearing open for correspondence from the DPW and for the applicant to work with the abutter and Fire on the gate issue.

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

VOTED: to continue the hearing to 1/10/06 at 8:00 p.m.

Mr. Killeen arrived.

8:00 p.m. – Major Project Site Plan Review Special Permit No. 1995-09 Amendment: Highland Montrose, LLC, 159 Cambridge Street, Allston, MA 02134, Petitioner (Property located at 902-910 Highland Avenue, Needham, MA).

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

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

Roy Cramer, representative for the applicant, noted this is the Starbuck's building. The second floor has been vacant since Calvert's due to handicap inaccessibility. They need an elevator and stairway. They will build a small addition with an elevator. The second floor is 8 feet shorter than the first floor and they want to expand so it is the same. The new addition will match what is there now and they are requesting the same relief as was granted in 1998. The DPW has no problem and the Fire Department has no problem but suggested "no parking" signs by the back door. Mr. Eisenhut questioned if there would be a change in footprint and there will not be. Mr. Smart noted the following correspondence for the record: a letter from Roy Cramer, dated 11/9/05; a second letter from Roy Cramer dated 11/21/05; a memo from the DPW with no comment or objections; a memo from the Fire Department with no objections but comments; and a memo from the Police Department noting no safety concerns.

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

VOTED: to close the hearing.

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

VOTED: to grant the requested Amendment to the Major Project Site Plan Special Permit under Section 7.4 of the By-Law and Section 4.2 of Planning Board Decision 95-9.

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

VOTED: to grant the requested Special Permit under Section 3.2.2 of the By-Law to permit more than one non-residential use on a lot.

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

VOTED: to grant the requested Special Permit under Section 1.4.6 of the By-Law for the alteration of a non-conforming structure.

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

VOTED: to grant the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 (Off-Street Parking Requirements), subject to and with the benefit of the following Plan modifications, conditions and limitations and in accordance with the parking plan provided.

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

VOTED: to adopt the draft decision prepared by the Planning Director as their decision.

8:30 p.m. – Major Project Site Plan Review Special Permit No. 2005-09: The Blue Moon Café, Josephine D’Angelo, d/b/a The Blue Moon Café, 1498 Highland Avenue, Needham, MA, Petitioner (Property located at 1498 Highland Avenue, Needham, MA).

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

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

George Giunta Jr., representative for the applicant, reviewed the floor plan and equipment layout plan. He noted it is one consolidated plan now. This was the Big Dipper and the second floor is all offices. This is a 9,120 square foot building and they are using 765 square feet for this. It uses the first floor and basement. In 1969 it was approved for the sale of ice cream. They are proposing a makeover of the operation from an American style ice cream shop to an Italian style gelato café. They will retro fit the interior. The two biggest changes will be the installation of bi-fold in the front and the number of seats. They will remove the current bench out front, put in a railing and use the 3-foot area as outdoor seating. They will replace the windows with bi-fold doors to open up in the warm weather for seating. They have 10 seats currently and are asking for 24 seats. Eighteen will be fixed seats and they will have up to 6 seats in the good weather spilling out to the outside. They will sell baked goods, coffee, soups and sandwiches. With the increased seating the total parking increases by 4. If you do the take-out with 6 indoor/outdoor seats, parking increases by 2. The employees have permit parking out back. Mr. Eisenhut questioned if the rail would be put in on town property and was informed it would be and would have an awning. There will be take-out. Mr. Smart noted the following correspondence for the record: a memo from the Fire Department noting no problems; a memo from the Board of Health with no comments; a memo from the Police Department noting no safety concerns; and a memo from the DPW with no comments or objections.

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

VOTED: to close the hearing.

Ms. Newman noted the plan needs to be modified to reflect the seating number.

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

VOTED: to grant a Special Permit pursuant to Section 3.2.2 of the By-Law authorizing the use of the described premises for the retail sale of ice cream, frozen yogurt and similar products including bakery products with incidental and subordinate use of preparing pannini type sandwiches in accordance with the applicant’s description.

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

VOTED: to amend the previous vote to include soups.

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

VOTED: to grant relief from the Parking By-Law and to allow the operation of this business without providing any additional or any off-street parking in addition to the shared parking which is already provided by the landlord.

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

VOTED: to adopt the Planning Director's draft decision as the record of their decision.

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

VOTED: to grant a Special Permit pursuant to Section 3.2.2 of the By-Law for more than one non-residential use on a lot.

Major Project Site Plan Review Special Permit No. 2005-05 De-Minimus Change: Mount Blue c/o Matt Sullivan, 26 Worcester Road, Boston, MA 02118, Petitioner (Property located at 882-886 Highland Avenue, Needham, MA).

Roy Cramer, representative for the applicant, noted the contractor suggested a vestibule for weather purposes. They will propose new elevations and drawings as there will be minor changes. They will be going to the Design Review Board on Monday and will review the floor plan and elevations plan. They would like them to authorize the Planning Director to approve the revised plans. Mr. Killeen noted they are changing the red cedar in front and he does not want to approve it unless they have seen it. The vestibule is ok but the whole front is not. They need to see it.

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

VOTED: to authorize the Planning Director to approve the revised plan if it continues with red cedar along the front and keeps the integrity of the red cedar.

Appointments

9:00 p.m. – George Giunta Jr., Discussion regarding proposed 40B project at 128 Hillside Avenue.

Mr. Smart noted he had represented Mr. Shah years ago and has no problem hearing this. Mr. Giunta Jr., representative for the applicant, noted this is a 4 unit 40B and they need to have an informal discussion. It is an existing 2 family on a 16,000 square foot lot. They will build an additional 2-family house. One of the 4 units will be affordable and all will be rentals for the time being. There is an existing 20 by 40 foot garage, which will be removed and replaced. Mr. Handel requested he show the surrounding buildings in the future. He noted this is a density of 11 units per acre, which is significantly higher than the 8 units per acre. It is overly dense for the neighborhood. Ms. Bailin stated it was hard to tell the impact without elevations. There is too little information. She questioned where the drive comes out in terms of the drives across the street. They need to know that. Mr. Killeen commented there was no open space left and he has no ideas for this one. Mr. Eisenhut suggested they put one on top of the other. Mr. Giunta Jr. stated that was the least likely choice. He added the existing house is around 3,000 square feet.

9:15 p.m. – Michael Greis, Discussion regarding the demolition and rebuilding of three family dwellings in single residence zoning districts.

Mr. Greis noted 2 families could be rebuilt with some restrictions. There are 13 3-family and 4-families in town that are not covered under the By-Law and he questioned what the intent was. Ms. Bailin stated they were looking at 2 families. The statute protects single 2-family structures. This was never applied to the Mullin family. The Zoning By-Law is there to bring them into conformity. The statute does not protect 3-family homes. A discussion ensued. Mr. Smart noted they could use 1.4.6 but they would need to change this if they want control. Mr. Eisenhut noted they should not be able to tear down 3-families and rebuild. Ms. Bailin noted there is a problem still in 1.4.6. In 1.4, they deleted the word reconstruction and she questioned how it ended up back in 1.4.6. They need to bring up clarifying amendments and to write a section that deals only with residential and as to residential uses. It is very clear what was intended.

9:30 p.m. – Major Project Site Plan Review No. 91-01 De-minimus Change, Not Your Average Joe's, 105 Chapel Street, Needham, MA, Petitioner (Property located at 105 Chapel Street, Needham, MA).

The applicant noted they are putting a vinyl sliding enclosure cover over the wood pile for safety. Ms. Newman noted they Fire Department requested the change. It will be an aluminum track cover the same as the awning.

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

VOTED: to make the de-minimus change to the site plan.

ANR Plan: Anthony E. Cefalo, 2 Sunset Road, Needham, MA, Petitioner (Parcel 38 on Assessors Map 108 off Sunset Road, Needham, MA).

Ms. Newman noted this is currently a conforming lot. The parcel is in back and they are subdividing the separate lot in back. 7J, 7K and 7H are one lot and he wants to take a piece of 7H and combine it with his lot (6C). The existing house meets all requirements but when adding a piece it does not meet the new 12½ foot requirement. You cannot add to conforming lots and create a zoning violation. It is presently conforming. A discussion ensued. Ms. Bailin stated this creates a zoning violation. A motion was made to decline to endorse the plan unless there is a proviso the parcels to be conveyed will not be combined with existing lots. When combined with lots this would create your violation.

Upon a motion made by Ms. Bailin, and seconded by Mr. Killeen, it was by four of the five members present (Mr. Handel abstained):

VOTED: to grant endorsement ANR provided there is a note added it is not to be combined with other 2 lots.

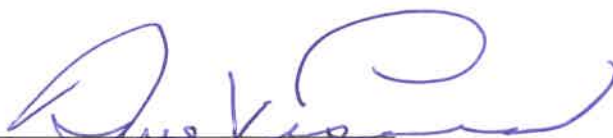
Richard Epstein—Discussion regarding zoning.

Mr. Epstein requested they extend to the Single Residence B district the same zoning protection as General Residence District. Mr. Handel noted this does not compromise the New England Business District. Ms. Newman noted just changing the language does not do it. It needs to be creatively written to protect. She will think about it and put it on the agenda for January.

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

VOTED: to adjourn the meeting at 11:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Bruce Eisenhut, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

January 24, 2006

The regular meeting of the Planning Board, held in the Cafeteria Space at Broadmeadow School, was called to order by the Chairman, Robert Smart, on Tuesday, January 24, 2006 at 7:30 p.m. with Messrs. Eisenhut and Handel and Ms. Bailin present as well as Planning Director, Ms. Newman and Recording Secretary, Ms. Kalinowski.

Public Hearings

7:30 p.m. – Major Project Site Plan Review Special Permit No. 2005-07: Needham Gateway, LLC, 66 Cranberry Lane, Needham, MA, Petitioner (Property located at 100, 120 and 126 Highland Avenue and 54 Second Avenue, Needham, MA). Continued from January 10, 2006.

George Giunta Jr., representative for the applicant, noted the basic plan has changed slightly. The egress to Highland Terrace is now an ingress 16 feet wide. The Fire Department has concerns with the 16 feet. The Highland Terrace egress has been switched to Highland Avenue. They are loath to do this but it is right turn only. The building has been reconfigured slightly for site distances. Along the front of the long building there is an elevated walkway that connects to a handicap ramp. Everything is handicap accessible. The total redevelopment of the site complies with all requirements except rear setback and along Second Avenue the setback to parking spaces. They are requesting relief from the parking requirements. Mr. Eisenhut questioned the open space requirements to this site. There is 10% landscaping. There will be over 11,000 square feet of landscaping and the landscaping and parking area exceeds the requirements. Ms. Bailin asked if the front door on the small building complies with the requirements. Mr. Giunta Jr. stated it is not handicap accessible but due to lot configuration the Board can waive. Mr. Smart questioned how they can have 30 less spaces than required. Mr. Giunta Jr. stated Giles Hamm spoke in earlier hearings. They feel the By-Law overstates the parking demand. Mr. Smart noted the following correspondence for the record: a memo from the Design Review Board, dated 1/24/06, with comments and concerns; a memo from the DPW with no comments or objections; a letter from George Giunta Jr., dated 1/23/06, with additional information; a letter from George Giunta Jr., dated 1/24/06, with further information and a memo from the Fire Department with no comment. Ms. Newman stated they have no recommendation for the updated planting plan. This would be a condition.

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

VOTED: to close the hearing.

Ms. Bailin noted they need to impose a condition there should be no intensive uses like a pharmacy, CVS, etc. It should be specialty retail. Ms. Newman stated she has revised the draft and it is in the packet. She has not included that condition. Paragraph 3.24 – she has added a phrase after the first sentence regarding maintenance of the lots. She has requested detail on the decorative fence. Mr. Smart stated in paragraph 1.19, she should change the sentence to say “to improve safety of access to and egress from site” and in 1.30 they should add a sentence that explains why they are willing to provide parking spaces. Ms. Bailin noted they should add restricted retail uses that are intensive. Mr. Smart stated in Section 2.1, subparagraph 2, it should have the number of seats and was informed it is in there now. Mr. Giunta Jr. noted in paragraph 3.24 he has a concern with lot maintenance. Sealcoating and striping should be allowed on weekends and evenings during day light hours. It is quiet maintenance. All agreed this was no problem. Mr. Giunta Jr. noted deliveries at Panera’s are twice a week at night. The deliveries are made furthest away from the residential section and they would like deliveries between 9:00 p.m. and midnight. They cannot do it during daytime hours. Mr. Smart questioned how far away from the nearest house. Mr. Giunta Jr. informed him about 240 feet. He added they can restrict it to no deliveries after midnight but they usually deliver between midnight and 6:00 a.m. He clarified building/demolition permits under 3.31. They would like to begin the process as soon as possible during the appeal period. This should read “other than demolition permit” and can have a review for demolition permit. Mr. Handel stated he would accept “no deliveries between midnight and 7:00 a.m., 2 days per week.”

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

VOTED: to grant a Major Project Site Plan Special Permit under Section 7.4 of the By-Law in accordance with the plans provided.

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

VOTED: to grant a Special Permit under Section 1.4.6 of the By-Law for the change and extension of a lawful, pre-existing, non-conforming use, and, to the extent applicable and required, the alteration and enlargement and reconstruction of a lawful, pre-existing, non-conforming structure.

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

VOTED: to rescind the Special Permit under Section 1.4.6 of the By-Law.

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

VOTED: to grant a Special Permit under Section 3.2.4.2 of the By-Law for the off-street parking of vehicles associated with a principal use located on a lot that comprises land in 2 or more districts where the use is not otherwise allowed in the district in which the parking is to be located.

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

VOTED: to grant a Special Permit under Section 3.2.5.2(j) of the By-Law for a take-out food counter as an accessory to a food retail or other non-consumptive retail establishment.

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

VOTED: to grant a Special Permit under Section 3.2.5.2(l) of the By-Law for a take-out establishment primarily engaged in the dispensing of prepared foods to persons carrying food and beverage away for preparation and consumption elsewhere.

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

VOTED: to grant a Special Permit under Section 3.2.5.2(m) of the By-Law for a fast-food establishment offering over-the-counter sale of on/off premises prepared food or beverage primarily intended for immediate consumption and prepared in such a manner to be readily eaten from easily disposable containers.

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

VOTED: to grant a Special Permit under Section 4.5(6) of the By-Law to reduce the setback from a General Residence zoning district line to not less than twenty (20) feet.

Upon a motion made by Ms. Bailin, and seconded by Mr. Handel, it was by the four 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 off-street parking requirements of Section 5.1.2 and Section 5.1.3 of the By-Law.

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

VOTED: to grant further site plan approval in accordance with Major Project Site Plan Special Permit No. 99-1, Section 4.2.

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

VOTED: to adopt the decision drafted by the Planning Director with the changes authorized during the discussion tonight.

Approval of Minutes.

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

VOTED: to approve the minutes of September 6, 2005.

ANR Plan: Cliff B. London, 23 Tudor Road, Needham, MA, Petitioner (Property located at 69 Valley Road, Needham, MA).

Mr. Smart recused himself and left the room.

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

VOTED: to grant endorsement ANR.

Mr. Smart returned to the room.

Report of the Planning Director and Board Members.

Mr. Handel stated there is a facilities working group looking at various town office/activity needs versus available sites. He showed a grid chart. Mr. Smart voiced his concern with the Dedham Avenue site. Mr. Handel noted they will not lose playing fields. They are looking for imaginative ideas for parking. Mr. Smart stated the golf course is one of the nicest parcels of open space in town and he would not like to see it chopped up. Mr. Handel informed them access to the Nike Site through Ridge Hill is more accessible. He would bring any comments back. He added High Rock appears to be the best transitional option right now.

Ms. Newman noted the Board approved a modification on the library site plan. They required the plan sheets be modified. She finally got a set and discovered the back of the building is not as it is on the original drawings. The building is now 20 feet off the property line. They were allowed to come down to 21.9 feet by Special Permit. She questioned if they need a public hearing to come down to 20 feet. Mr. Smart stated it was the Board's consensus they should come back. Ms. Newman noted Steve Popper wants a temporary Certificate of Occupancy by 2/27/06 and occupied by 3/16/06. He wants the Special Permit process started before he walks into the Board meeting.

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

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

Respectfully submitted,
Donna J. Kalinowski, Notetaker



Bruce Eisenhut, Vice-Chairman and Clerk

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: Piersiak lot releases
Date: Tuesday, June 8, 2021 4:12:44 PM

From: Robert Smart <bob@robertsmart.net>
Sent: Wednesday, June 2, 2021 11:01 AM
To: Lee Newman <LNewman@needhamma.gov>; Anthony DelGaizo <ADelgaizo@needhamma.gov>
Subject: Piersiak lot releases

Lee and Tony: Bill Piersiak expects to complete paving at the end of next week, and would like to make arrangements, so he can get lot releases for the Heather Lane and Heather Lane Extension subdivision lots. He says it will be a cash bond. His preference is Dedham Savings Bank, in Needham, for the account. Please let me know what the arrangements will be for the DPW estimate(s) and the Planning Board meeting to approve the bond amount and authorize issuance of the lot releases. Bob

Robert T. Smart, Jr., Esq.
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E-MAIL bob@robertsmart.net WEBSITE www.robertsmart.net

By Email and Mail

June 10, 2021

Lee Newman
Needham Planning Board
500 Dedham Avenue
Needham, Ma. 02492

Re: Piersiak Conservation Restriction

Dear Lee:

We need to record the Conservation Restriction before the end of June, so Bill Piersiak can obtain his lot releases. The financial consequences of this not happening are severe. The "paper trail" I have is as follows:

1. On 12/3/20, I delivered the original and a copy of the Conservation Restriction, with other original subdivision and residential compound documents, to 500 Dedham Avenue. I believe I handed them to Alexandra Clee. The Conservation Restriction had Bill Piersiak's notarized signature. Endorsements from the Conservation Commission, Select Board, and Secretary of the Executive Office of Environmental Affairs were needed.
2. On 12/8/20, I asked, via email, whether you had the Conservation Restriction, signed by the Commission members.
3. On 12/14/20, I asked, via email, where we stood on obtaining signatures from various officials. Since I did not mention signatures for the Conservation Commission members, I assume those signatures had been obtained.
4. On December 23, 2020, I picked up your letters asking me to record numerous Heather Lane Subdivision and Heather Lane Extension Subdivision documents, for recording. Because some of those documents required signatures from Town Counsel and the Select Board, those officials must already have signed.

5. On December 30, 2020, I recorded numerous executed documents. These were listed in my January 6, 2021, letter to you. As indicated in the letter, the only document remaining to be recorded was the Conservation Restriction.

6. On February 19, 2021, I emailed Christopher Heep, Esq., asking about the status of the Conservation Restriction. You sent me an email the same day saying you would check with Chris about the Conservation Restriction.

7. I sent a follow-up email to Christopher Heep on 4/21. There were additional follow-up emails on 5/1, 5/14, 5/24, and 6/9/21. I also left him several voicemail messages. I have not received a substantive response from him.

Copies of these communications are provided with this letter.

From all this, it is clear there is only one Conservation Restriction document. Presumably, it is in Christopher Heep's possession. I understand from our discussion today that Chris never got it to the EOEa for signature.

Given that it could take considerable time for the Conservation Restriction to be executed and returned from EOEa, putting Mr. Piersiak's lot releases, and the financial viability of the two subdivisions, in jeopardy, I request the following:

1. That the original Conservation Restriction, with all signatures except EOEa, be delivered to me as soon as possible.
2. That I be authorized to record said Conservation Restriction at the Registry of Deeds without the EOEa signature page.
3. That the recording of the Conservation Restriction without the EOEa signature be deemed to satisfy the pertinent provisions of the Heather Lane Subdivision and Heather Lane Extension Subdivision Decisions, so that Mr. Piersiak can obtain lot releases and proceed with lot sales before the end of June, 2021.
4. That you circulate a second, clean version of the Conservation Restriction, for signatures by all the designated signers, including EOEa. I will record this once it comes back, fully signed.

Please contact me to discuss the above.

Very truly yours,



Robert T. Smart, Jr.

cc: Christopher Heep, Esq.
William John Piersiak

By E-Mail and Delivery
December 3, 2020

Lee Newman
Needham Planning Board
500 Dedham Avenue
Needham, MA 02492

Re: Heather Lane Definitive Subdivision
Heather Lane Extension Residential Compound and Definitive Subdivision

Dear Lee, and Members of the Board:

Enclosed please find:

1. **Mylar of Plan entitled “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A, & 768B Chestnut Street, Needham, MA”, prepared by Kelly Engineering Group, Inc.** The required revisions (references on the Plans to the Decisions and various homeowner documents, covenants, and easements, and conservation restriction, and a change to the Town Clerk’s certification) have been made. Endorsements from the Planning Board, Town Clerk, Director of Public Works, and Town Engineer are needed.
2. **Mylar of Plan entitled “Definitive Subdivision Plans and Residential Compound Special Permit, 768-768A Chestnut Street, Lot 4 Heather Lane, Needham, MA”, prepared by Kelly Engineering Group, Inc.** The required revisions (references on the Plans to the Decisions and various homeowner documents, covenants, and easements, and conservation restriction, and a change to the Town Clerk’s certification) have been made. Endorsements from Planning Board, Town Clerk, Director of Public Works, and Town Engineer are needed.
3. **Original and copy of the Conservation Restriction.** Please provide the original to Deb Anderson, as it is needed for the Commission’s meeting. The changes requested by the Town Counsel have been made. Endorsements from the Conservation Commission, Select Board, and Secretary of Energy and Environmental Affairs are needed.
4. **Heather Lane Homeowners Association Declaration of Trust.** The changes requested by the Town Counsel have been made, and the Mortgagee Assent has been provided. Town Counsel’s endorsement is needed.

5. **Heather Lane Declaration of Restrictive Covenants.** The changes requested by the Town Counsel have been made, and the Mortgagee Assent has been provided. Endorsements by Town Counsel and Select Board are needed.

6. **Heather Lane Subdivision Covenant.** The changes requested by the Town Counsel have been made, and the Mortgagee Assent has been provided. An endorsement by Town Counsel is needed.

7. **Heather Lane Extension Homeowners Association Declaration of Trust.** The changes requested by the Town Counsel have been made. Town Counsel's endorsement is needed.

8. **Heather Lane Extension Declaration of Restrictive Covenants.** The changes requested by the Town Counsel have been made. Endorsements by Town Counsel and Select Board are needed.

9. **Heather Lane Extension Subdivision Covenant.** The changes requested by the Town Counsel have been made. An endorsement by Town Counsel is needed.

10. **Grant of Drainage Easement.** The changes requested by Town Counsel have been made.

11. **Grant of Utility Easement.** I believe the changes requested by Town Counsel have been made. A Mortgagee Assent has been provided. An endorsement by Town Counsel is needed.

Electronic copies of the Plans were emailed to Lee Newman by Kelly Engineering yesterday. Electronic versions of the other documents are being emailed today.

We will need back the original documents, once endorsed, for recording.

Very truly yours,

Robert T. Smart, Jr.

Cc (electronic only) William Piersiak
(electronic only) Koby Kempel
(electronic only) Christopher Heep, Esq.
(electronic only) Alexandra Clee



Robert Smart <bob@robertsmart.net>

Heather Lane and Heather Lane Extension

1 message

Robert Smart <bob@robertsmart.net>

Thu, Dec 3, 2020 at 2:06 PM

To: Lee Newman <LNewman@needhamma.gov>, Clee Alexandra <aclee@needhamma.gov>, Christopher Heep <cheep@miyares-harrington.com>, Bill Piersiak <bpiersiak@icloud.com>, Koby Kempel <kobykempel@yahoo.com>

Attached please find electronic copies of my letter to Lee Newman and of the documents referred to therein. Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net

10 attachments

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Robert Smart <bob@robertsmart.net>

Heather Lane

1 message

Robert Smart <bob@robertsmart.net>

Tue, Dec 8, 2020 at 10:05 AM

To: Lee Newman <LNewman@needhamma.gov>, Bill Piersiak <bpiersiak@icloud.com>

Lee: I wanted to follow up with you on a few items:

1. Do you have the Conservation Restriction, signed by the Commission members?
2. When do you expect Chris Heep, the Planning Board members, the Town Engineer, the Director of Public Works, the Select Board, and the Town Clerk to sign the various documents and plans?
3. What will the process be for obtaining the signature from the Secretary of Energy and Environmental Affairs on the Conservation Restriction?
4. With regard to Heather Lane and Heather Lane Extension, I know there will not be street acceptances by the Town. But at some point I believe the Select Board will assign street numbers for the various lots. Can you explain to me the process of getting street numbers - when and how this occurs?

Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net



Robert Smart <bob@robertsmart.net>

Piersiak

1 message

Robert Smart <bob@robertsmart.net>

Mon, Dec 14, 2020 at 9:18 AM

To: Lee Newman <LNewman@needhamma.gov>, Bill Piersiak <bpiersiak@icloud.com>

Lee: where do we stand on obtaining signatures from Town Counsel, Select Board, DPW, Town Engineer, Planning Board, Secretary of Energy and Environmental Affairs? Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

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

PLANNING

December 23, 2020

Mr. Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492

Re: DEFINITIVE SUBDIVISION
Heather Lane Definitive Subdivision

Dear Mr. Smart:

In connection with the Heather Lane Definitive Subdivision Decision for William John Piersiak, 768 768A Chestnut Street, Needham, MA; William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, 768B Chestnut Street, Needham, MA; and Koby Kempel, Manager of the 766 Chestnut LLC, 766 Chestnut Street, Needham, MA for property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Massachusetts, dated August 11, 2020, I enclose a complete set of the following executed original documents and plans for recording at the Registry of Deeds.

1. Fully signed and notarized Heather Lane Subdivision Covenant Under Provisions of General Laws Chapter 41, Section 81-U dated December 1, 2020.
2. Fully signed and notarized Heather Lane Homeowners Association Declaration of Trust dated December 1, 2020.
3. Fully signed and notarized Grant of Utility Easement dated December 1, 2020.
4. Fully signed and notarized Grant of Drainage Easement from 768B Chestnut Street Realty Trust to Homeowners Association Trust, and Heather Lane Extension Homeowners Association Trust dated December 1, 2020.
5. Fully signed and notarized Heather Lane Declaration of Restrictive Covenants dated December 1, 2020.
6. "Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA", prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 13 Sheets; Sheet 1, No. 1, "Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA ", dated March 3, 2020, revised September 1, 2020; Sheet 2, No. 2, "Key Sheet", dated March 3, 2020, revised July 7, 2020, July 22, 2020 and September 1, 2020; Sheet 3, No 3A "Existing Conditions Plan," dated March 3, 2020, revised July 7, 2020 (no change); Sheet 4, No. 3B, "Existing Conditions Plan", dated March 3, 2020, revised July 7, 2020 (no change); Sheet 5, No. 3C, "Existing Conditions Plan", dated March 3, 2020, revised July 7, 2020 (no change); Sheet 6, No. 4A, "Lotting Plan", dated March 3, 2020, revised July 7, 2020, July 22, 2020 and September 1, 2020; Sheet 7, No.

4B, "Lotting Plan", dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change), and September 1, 2020; Sheet 8, No. 4C, "Lotting Plan", dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change), and September 1, 2020; Sheet 9, No. 5, "Plan & Profile Heather Lane", dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 10, No. 6, "Grading Plan", dated March 3, 2020, revised July 7, 2020 (no change), July 22, 2020 and September 1, 2020; Sheet 11, No. 7, "Utility Plan," dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 12, No. 8, "Detail Plan," dated March 3, 2020, revised July 7, 2020 (no change); Sheet 13, No. 9, "Detail Sheet," dated March 3, 2020, revised July 7, 2020 (no change). Plan Sheets 4A, 4B and 4C are being recorded herewith.

Please record the above-named items in the Norfolk County Registry of Deeds along with the following original document (item 7 below) which was sent to you by letter dated August 26, 2020.

7. The Definitive Subdivision Decision for Heather Lane Definitive Subdivision Decision for your clients William John Piersiak, 768-768A Chestnut Street, Needham, MA; William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, 768B Chestnut Street, Needham, MA; and Koby Kempel, Manager of the 766 Chestnut LLC, 766 Chestnut Street, Needham, MA for property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Massachusetts, dated August 11, 2020.

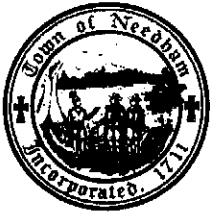
Please provide the Planning Board with a copy of all recorded documents certified by the Registry. In addition, at the time of recording, please make sure that the plan reference with associated recording information is added to all documents as described above. You must complete the remainder steps before the Board will authorize the release of any subdivision lots.

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

Very truly yours,

Lee Newman
Director of Planning and Community Development

cc: Chris Heep, Town Counsel
Tony DelGaizo, Town Engineer
Carys Lustig, Interim Director of Public Works



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

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

PLANNING

December 23, 2020

Mr. Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492

Re: DEFINITIVE SUBDIVISION
Heather Lane Extension Residential Compound and Definitive Subdivision

Dear Mr. Smart:

In connection with the Heather Lane Extension Residential Compound and Definitive Subdivision Plan Decisions, both for William John Piersiak, 768 Chestnut Street, Needham, MA, for property located at 768-768A Chestnut Street, Needham, Massachusetts, both dated August 11, 2020, I enclose a complete set of the following executed original documents and plans for recording at the Registry of Deeds.

1. Fully signed and notarized Heather Lane Extension Declaration of Restrictive Covenants dated December 1, 2020.
2. Fully signed and notarized Heather Lane Extension Subdivision Covenant Under Provisions of General Laws Chapter 41, Section 81-U dated December 1, 2020.
3. Fully signed and notarized Heather Lane Extension Homeowners Association Declaration of Trust dated December 1, 2020.
4. The Plan entitled, "Definitive Subdivision Plans and Residential Compound Special Permit, 768-768A Chestnut Street, Lot 4 Heather Lane, Needham, MA", prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 7 Sheets; Sheet 1, No. 1, "Definitive Subdivision Plans and Residential Compound Special Permit for Heather Lane, 768-768A Chestnut Street, Needham, MA ", dated March 3, 2020, revised September 1, 2020; Sheet 2, No. 2, "Existing Conditions Plan," dated March 3, 2020, revised September 1, 2020 (no change); Sheet 3, No. 3, "Lotting Plan", dated March 3, 2020, revised July 7, 2020, July 22, 2020 and September 1, 2020; Sheet 4, No. 4, "Grading Plan", dated March 3, 2020, revised July 7, 2020; Sheet 5, No. 5, "Sewer & Drain Plan", dated March 3, 2020, revised July 7, 2020; Sheet 6, No. 6, "Utility Plan", dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change) and September 1, 2020; Sheet 7, No. 7, "Detail Sheet", dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change) and September 1, 2020. Plan Sheet 3 to be recorded.

Please record the above-named items in the Norfolk County Registry of Deeds along with the following original document (items 5 and 6 below) which were sent to you by letter dated August 26, 2020.

5. Heather Lane Extension Definitive Subdivision Decision for your client William John Piersiak, 768 Chestnut Street, Needham, MA for property located at 768-768A Chestnut Street, Needham, Massachusetts; and
6. Heather Lane Residential Compound Special Permit for your client William John Piersiak, 768 Chestnut Street, Needham, MA for property located at 768-768A Chestnut Street, Needham, Massachusetts.

Please provide the Planning Board with a copy of all recorded documents certified by the Registry. In addition, at the time of recording, please make sure that the plan reference with associated recording information is added to all documents as described above. You must complete the remainder steps before the Board will authorize the release of any subdivision lots.

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

Very truly yours,

Lee Newman
Director of Planning and Community Development

cc: Chris Heep, Town Counsel
Tony DelGaizo, Town Engineer
Carys Lustig, Interim Director of Public Works

ROBERT T. SMART, JR., ESQ.

ATTORNEY AT LAW

399 CHESTNUT STREET

NEEDHAM, MASSACHUSETTS 02492

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

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

E-Mail and Mail
January 6, 2021

Lee Newman
Needham Planning Board
500 Dedham Avenue
Needham, MA 02492

Re: Heather Lane Definitive Subdivision
Heather Lane Extension Residential Compound and Definitive Subdivision

Dear Lee, and Members of the Board:

On December 30, 2020, the following documents were recorded:

1. Heather Lane Definitive Subdivision Decision. Book 38810, Page 96.
2. Definitive Subdivision Plans for Heather Lane 764, 766, 768-768A, & 768B Chestnut Street, Needham, MA, Lotting Plan Sheets 4A, 4B, and 4C. Plan Book 698, Pages 56-58.
3. Heather Lane Homeowners Association Declaration of Trust. Book 38810, Page 110.
4. Heather Lane Declaration of Restrictive Covenants. Book 38810, Page 124.
5. Heather Lane Subdivision Covenant. Book 38810, Page 133.
6. Grant of Drainage Easement. Book 38810, Page 141.
7. Grant of Utility Easement. Book 38810, Page 145.
8. Heather Lane Extension Subdivision Decision. Book 38810, Page 151.
9. Heather Lane Residential Compound Special Permit. Book 38810, Page 165.
10. Residential Compound, 768-768A Chestnut Street (Lot 4 Heather Lane), Needham, MA, Lotting Plan Sheet 3. Plan Book 698, Page 59.

11. Heather Lane Extension Homeowners Association Declaration of Trust. Book 38810, Page 173.

12. Heather Lane Extension Declaration of Restrictive Covenants. Book 38810, Page 186.

13. Heather Lane Extension Subdivision Covenant. Book 38810, Page 193.

Copies of the first page of each document, and certified copies of the plans, are enclosed. I will provide the originals of the documents to you, once they come back from the Registry of Deeds.

The only document yet to be recorded is the Conservation Restriction, which I will record once I receive it back, fully executed, from you.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. T. Smart'.

Robert T. Smart, Jr.

Cc William Piersiak
Koby Kempel



Robert Smart <bob@robertsmart.net>

Heather Lane Extension Subdivision

1 message

Robert Smart <bob@robertsmart.net>

Fri, Feb 19, 2021 at 10:49 AM

To: Christopher Heep <cheep@miyares-harrington.com>

Chris: could you let me know the status of the signing of the Conservation Restriction? I have attached copies of the first page and the page requiring the signature of the Secretary of Energy and Environmental Affairs. I believe you have the original of the document, signed by everyone else. If we don't get this document recorded, we can't get lot releases for the subdivision, under the terms of the Planning Board Decision. Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net

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GRANTOR: William John Piersiak
GRANTEE: Town of Needham, acting by and
through its Conservation Commission
ADDRESS OF PREMISES: 768-768A Chestnut Street,
Needham, MA
FOR GRANTOR'S TITLE SEE: Norfolk County Registry
of Deeds at Book 36756, page 532.

CONSERVATION RESTRICTION

William John Piersiak, of 768 Chestnut Street, Needham, Norfolk County, Massachusetts 02492, constituting all of the owner(s), for my successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to Town of Needham, a municipal corporation with an address of 500 Dedham Avenue, Needham, Massachusetts 02492, acting by and through its Conservation Commission by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, their permitted successors and assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on an area of land located in the Town of Needham marked as "Conservation Restriction" on a Plan entitled "Heather Lane, Needham, MA Conservation Restriction Plan", dated November 18, 2020, prepared by Kelly Engineering Group ("Plan"). The restricted land is hereinafter referred to as the "Premises". The Premises are located within Lot 4, as shown on the Plan, and also within RC-Lot 3, RC-Lot 4, and RC-Lot 5 on a plan entitled "Definitive Subdivision Plans and Residential Compound Special Permit, 768-768A Chestnut Street, Lot 4 Heather Lane, Needham, MA", dated March 3, 2020, last revised September 1, 2020, prepared by Kelly Engineering Group, recorded herewith, and shown in the reduced copy of a survey plan of land in Exhibit A incorporated herein and attached hereto.

For Grantor's title to said land, see deed dated April 23, 2019, recorded with the Norfolk Registry of Deeds in Book 36756, Page 532.

This Conservation Restriction does not affect or limit the rights of the Massachusetts Water Resources Authority (MWRA) as set forth in a Sewer Easement shown on Exhibit A.

I. PURPOSES:

**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from William John Piersiak to Town of Needham, acting by and through its Conservation Commission, has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2020

Kathleen A. Theoharides
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this _____ day of _____, 2020, before me, the undersigned notary public, personally appeared Kathleen A. Theoharides, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:



Robert Smart <bob@robertsmart.net>

Re: Heather Lane

1 message

Robert Smart <bob@robertsmart.net>

Fri, Feb 19, 2021 at 1:02 PM

To: Lee Newman <LNewman@needhamma.gov>

Lee: I did send him an email today. By the way I think his last name is spelled Heep. Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net

On Fri, Feb 19, 2021 at 12:51 PM Lee Newman <LNewman@needhamma.gov> wrote:

The only loose end that comes to mind is the Conservation Restriction. I will see if I can get an update on this from Chris Heep. He has been busy with other items so I not know if he has focused on this request. It would be helpful if you too reached out to him to move it along.

Lee

From: Alexandra Clee <aclee@needhamma.gov>

Sent: Friday, February 19, 2021 10:39 AM

To: Robert Smart <bob@robertsmart.net>; Lee Newman <LNewman@needhamma.gov>

Subject: Re: Heather Lane

1. I expect to have the decisions signed and recorded with Tedi sometime next week. There is no appeal period. The decisions WILL have to be recorded.
2. I don't think we have an update from Chris Heep, but Lee can confirm.
3. I need 7 sheets, like before. But does this sheet need to be signed by everyone - if so, I will have to coordinate that first.
4. I will let Lee answer.

Thanks, alex.

Alexandra Clee

Assistant Town Planner



Robert Smart <bob@robertsmart.net>

Piersiak

1 message

Robert Smart <bob@robertsmart.net>

Wed, Apr 21, 2021 at 10:35 AM

To: Christopher Heep <cheep@miyares-harrington.com>, Lee Newman <LNewman@needhamma.gov>

Chris and Lee: Any progress on getting a signature from the Secretary of EOE? See attached. Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net

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Robert Smart <bob@robertsmart.net>

Re: Piersiak

1 message

Christopher Heep <cheep@miyares-harrington.com>

Sat, May 1, 2021 at 11:47 AM

To: Robert Smart <bob@robertsmart.net>, Lee Newman <lnewman@needhamma.gov>

Hi Bob. I apologize for not responding sooner, but I'll check in and get a progress report to you on Monday.

Thanks,

Chris

Christopher H. Heep

MiyaresHarrington - Local options at work

Miyares and Harrington LLP

40 Grove Street • Suite 190

Wellesley, MA 02482

Direct: 617.804.2422 | Main: 617.489.1600

www.miyares-harrington.com

From: Robert Smart <bob@robertsmart.net>**Date:** Wednesday, April 21, 2021 at 10:35 AM**To:** Christopher Heep <cheep@miyares-harrington.com>, Lee Newman <lnewman@needhamma.gov>**Subject:** Piersiak

Chris and Lee: Any progress on getting a signature from the Secretary of EOEA? See attached. Bob

Robert T. Smart, Jr., Esq.

399 Chestnut Street



Robert Smart <bob@robertsmart.net>

Heather Lane subdivision

1 message

Robert Smart <bob@robertsmart.net>

Fri, May 14, 2021 at 9:43 AM

To: Christopher Heep <cheep@miyares-harrington.com>

Chris: have you heard back from the state on the Conservation Restriction? Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net



Robert Smart <bob@robertsmart.net>

Piersiak

1 message

Robert Smart <bob@robertsmart.net>

Mon, May 24, 2021 at 9:42 AM

To: Christopher Heep <cheep@miyares-harrington.com>, Lee Newman <LNewman@needhamma.gov>, Deb Anderson <andersond@needhamma.gov>

All: any word on finalizing the Conservation Restriction? I'm concerned that this will not get done, and that the result will be that Bill Piersiak will be prevented from getting lot releases. Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net



Robert Smart <bob@robertsmart.net>

Piersiak

1 message

Robert Smart <bob@robertsmart.net>

Wed, Jun 9, 2021 at 11:48 AM

To: Lee Newman <LNewman@needhamma.gov>, Clee Alexandra <aclee@needhamma.gov>

Lee:

Conservation Restriction

It has been almost 6 months and still there is no response from the Executive Office of Environmental Affairs. Can you help with this?

If it appears we cannot get a response from them soon, we may need to seek to amend the subdivision decisions so we can proceed with lot releases and sales before recording of the Conservation Restriction (we could include some language saying we'll record that Restriction once EOEA signs, and we'll obtain assents from the lot buyers for this). Let me know about this. I can draft proposed amendment decisions, and would like to have the proposed amendments heard at the Board's June 29 meeting.

Drainage Bonds

Bill Piersiak is currently planning to post two drainage bonds - \$14,000 for Lots 1, 3, 5, and 6 of Heather Lane (Bill has decided on new construction for Lot 3), and \$17,500 each of Lots RC-1 to RC-5 (as to Lot 2 of Heather Lane - Koby Kempel's lot, I understand the plan is to provide a proof of compliance letter from the engineer).

For the drainage bonds, should Bill write two checks payable to "Town of Needham", of \$14,000 and \$17,500, and should these be delivered to the Planning Board, or to the Board of Health? When should he provide these?

Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net



Robert Smart <bob@robertsmart.net>

Piersiak - EOE

1 message

Robert Smart <bob@robertsmart.net>

Wed, Jun 9, 2021 at 11:29 AM

To: Christopher Heep <cheep@miyares-harrington.com>

Chris: Please call. Also, could you let me know who the contact person is at EOE, and give me the phone # and email of that person? Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net



Robert Smart <bob@robertsmart.net>

Piersiak conservation restriction - Heather Lane subdivision, Needham

1 message

Robert Smart <bob@robertsmart.net>

Wed, Jun 9, 2021 at 2:12 PM

To: Christopher Heep <cheep@miyares-harrington.com>, Deb Anderson <andersond@needhamma.gov>

Chris or Deb: is there a docket number or reference number for this at the Executive Office of Environmental Affairs? Bob

Robert T. Smart, Jr., Esq.
399 Chestnut Street
Needham, MA 02492
T 781-444-9344
FX 781-449-0242
bob@robertsmart.net

By Email and Mail
June 14, 2021

Lee Newman
Needham Planning Board
500 Dedham Avenue
Needham, MA 02492

Re: Heather Lane and Heather Lane Extension Bond

Dear Lee:

I recently met with Tom Ryder who suggested that I update you on the status of the work at both Heather Lane and Heather Lane Extension in anticipation of establishing a bond figure for lot releases.

As a template, below please find the work items listed on the Subdivision Inspection Form, Appendix E. I offer the following for your information:

CLEARING AND GRUBBING	100%
EXCAVATION TO SUBGRADE	100%
GRAVEL SUB BASE	100%
GRAVEL BASE	100%
CHECK OF LINE AND STREET GRADES	100%
BASE COURSE BITUMINOUS CONCRETE	100%
FINISH COURSE BITUMINOUS CONCRETE	0%
SIDEWALK GRAVEL GRADES	N/A
SIDEWALKS	N/A
CURBS (ASPHALT, CONCRETE OR GRANITE)	0%

Lee Newman
June 14, 2021
Page 2

GRASS BERMS	0%
SEWER MAINS AND APPURTENANCES	100%
DRAINS AND APPURTENANCES	100%
WATER MAINS AND APPURTENANCES	100%
BOUNDS	0%

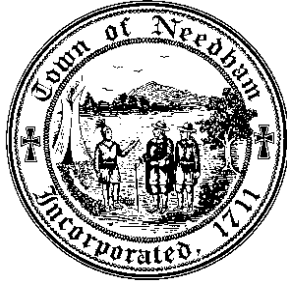
Other items not listed on Appendix E, but requirements of both subdivision approvals that are 100% installed and established include street lighting, underground electrical, cable and data, natural gas main and services, wet and recharge basins (including hydroseed), road landscape trees, wetland mitigation trees for Conservation Commission, as-built service ties (submitted to water and sewer department), water and sewer main testing, street and stop sign.

For those items not 100% complete, listed below are the contract value of those items to act as a guide only. I understand from my conversation with Tom Ryder that his office will assign estimates based upon prevailing wages.

FINISH COURSE BITUMINIOUS CONCRETE	\$ 52,616
CURBS (ASPHALT, CONCRETE OR GRANITE)	\$ 37,566
BOUNDS	\$ 5,325
GRASS BERMS	\$ 18,682
TOTAL	\$ 114,189

I am available if you have any questions or would like to walk the site to inspect the work.

Bill Piersiak
617 759 9820



MEMORANDDUM

TO: Tony Del Gaizo, Engineering Dept.

CC: Carys Lustig, DPW Director

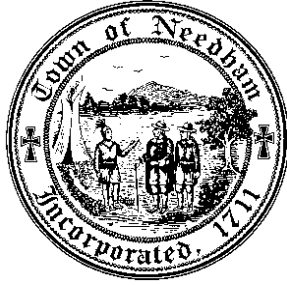
FROM: Planning Department

DATE: June 8, 2021

SUBJECT: Request for Establishment of Performance Bond
DEFINITIVE SUBDIVISION
Heather Lane
(for property formerly located at 764, 766, 768-768A, and 768B Chestnut Street)

I have attached an email of a letter from Robert Smart, Attorney, requesting the establishment of a performance bond for the above-named subdivision in order to secure the release of all of the subdivision lots. Please inspect the work completed in accordance with the conditional approval of the subdivision dated August 11, 2020, amended February 26, 2021. Please forward your comments to the Planning Department by Friday June 18, 2021; this topic is scheduled for the June 29, 2021 Planning Board agenda.

Thank you.



MEMORANDDUM

TO: Tony Del Gaizo, Engineering Dept.

CC: Carys Lustig, DPW Director

FROM: Planning Department

DATE: June 8, 2021

SUBJECT: **Request for Establishment of Performance Bond**
DEFINITIVE SUBDIVISION
Heather Lane EXTENSION
(for property formerly located at 768-768A Chestnut Street)

I have attached an email of a letter from Robert Smart, Attorney, requesting the establishment of a performance bond for the above-named subdivision in order to secure the release of all of the subdivision lots. Please inspect the work completed in accordance with the conditional approval of the subdivision dated August 11, 2020, amended February 26, 2021. Please forward your comments to the Planning Department by Friday June 18, 2021; this topic is scheduled for the June 29, 2021 Planning Board agenda.

Thank you.

NEEDHAM PLANNING BOARD
Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA
Release of Lots

Date: _____, 2021

The Planning Board of the Town of Needham, Massachusetts, hereby releases from the Covenant dated December 1, 2020, and recorded with the Norfolk Registry of Deeds, Book 38810, Page 133, the following enumerated lots shown on the Plan entitled “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA”, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 13 Sheets; Sheet 1, No. 1, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA”, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 13 Sheets; Sheet 1, No. 1, “Definitive Subdivision Plans for Heather Lane, 764, 766, 768-768A & 768B Chestnut Street, Needham, MA”, dated March 3, 2020, revised September 1, 2020; Sheet 2, No. 2, “Key Sheet”, dated March 3, 2020, revised July 7, 2020, July 22, 2020 and September 1, 2020; Sheet 3, No. 3A “Existing Conditions Plan,” dated March 3, 2020, revised July 7, 2020 (no change); Sheet 4, No. 3B, “Existing Conditions Plan”, dated March 3, 2020, revised July 7, 2020 (no change); Sheet 5, No. 3C, “Existing Conditions Plan”, dated March 3, 2020, revised July 7, 2020 (no change); Sheet 6, No. 4A, “Lotting Plan”, dated March 3, 2020, revised July 7, 2020, July 22, 2020 and September 1, 2020; Sheet 7, No. 4B, “Lotting Plan”, dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change), and September 1, 2020; Sheet 8, No. 4C, “Lotting Plan”, dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change), and September 1, 2020; Sheet 9, No. 5, “Plan & Profile Heather Lane”, dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 10, No. 6, “Grading Plan”, dated March 3, 2020, revised July 7, 2020 (no change), July 22, 2020 and September 1, 2020; Sheet 11, No. 7, “Utility Plan,” dated March 3, 2020, revised July 7, 2020 and July 22, 2020; Sheet 12, No. 8, “Detail Plan,” dated March 3, 2020, revised July 7, 2020 (no change); Sheet 13, No. 9, “Detail Sheet,” dated March 3, 2020, revised July 7, 2020 (no change). Plan Sheets 4A, 4B and 4C have been recorded with the Norfolk County Registry of Deeds in Plan Book 698, Pages 56, 57 and 58.

Lots designated for release are as follows: Lots 1, 2, 3, 4, 5, and 6.

Said lots are hereby released from restrictions as to sale and building specified in said Covenant. This release does not represent that any ways shown on said plan have been completed to the satisfaction of the Planning Board.

NEEDHAM PLANNING BOARD

CC:

Director, DPW

Town Engineer

Assessors

Board of Selectmen

Building Inspector

Board of Health

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2021

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was in the form of a state issued drivers license, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public

My Commission Expires: _____

Approved as to form:

Town Counsel

NEEDHAM PLANNING BOARD
Heather Lane Extension, 768, 768A and 768B Chestnut Street, Needham, MA
Release of Lots

Date: _____, 2021

The Planning Board of the Town of Needham, Massachusetts, hereby releases from the Covenant dated December 1, 2020, and recorded with the Norfolk Registry of Deeds, Book 38810, Page 193, the following enumerated lots shown on the Plan entitled “Definitive Subdivision Plans and Residential Compound Special Permit, 768-768A Chestnut Street, Lot 4 Heather Lane, Needham, MA”, prepared by Kelly Engineering Group, Inc., 0 Campanelli Drive, Braintree, MA 02184 and consisting of 7 Sheets; Sheet 1, No. 1, “Definitive Subdivision Plans and Residential Compound Special Permit for Heather Lane, 768-768A Chestnut Street, Needham, MA ”, dated March 3, 2020, revised September 1, 2020; Sheet 2, No. 2, “Existing Conditions Plan,” dated March 3, 2020, revised September 1, 2020 (no change); Sheet 3, No. 3, “Lotting Plan”, dated March 3, 2020, revised July 7, 2020, July 22, 2020 and September 1, 2020; Sheet 4, No. 4, “Grading Plan”, dated March 3, 2020, revised July 7, 2020; Sheet 5, No. 5, “Sewer& Drain Plan”, dated March 3, 2020, revised July 7, 2020; Sheet 6, No. 6, “Utility Plan”, dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change) and September 1, 2020; Sheet 7, No. 7, “Detail Sheet”, dated March 3, 2020, revised July 7, 2020, July 22, 2020 (no change) and September 1, 2020. Plan Sheet 3 has been recorded with the Norfolk County Registry of Deeds in Plan Book 698, Page 59.

Lots designated for release are as follows: RC-Lot 1, RC-Lot 2, RC-Lot 3, RC-Lot 4, and RC-Lot 5.

Said lots are hereby released from restrictions as to sale and building specified in said Covenant. This release does not represent that any ways shown on said plan have been completed to the satisfaction of the Planning Board.

NEEDHAM PLANNING BOARD

CC:

Director, DPW

Town Engineer

Assessors

Board of Selectmen

Building Inspector

Board of Health

Conservation Commission

Town Clerk

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

_____ 2021

On this _____ day of _____, 2021, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was in the form of a state issued drivers license, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public

My Commission Expires: _____

Approved as to form:

Town Counsel



**TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023**

June 24, 2021

Needham Planning Board
Public Service Administration Building
Needham, MA 02492

RE: Definitive Subdivision- Heather Lane
Off Chestnut Street-Request for Bond to release Lots

Dear Members of the Board:

The Department of Public Works has conducted several inspections of the subdivision. Per your request the following is the estimate of the remaining work required for the above referenced project.

Our estimate to complete this work is calculated as follows:

<u>Item</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
Final ROW berm/seed	LS	\$13,500	\$13,500
Asphalt top course	LS	\$42,500	\$42,500
Bounds	LS	\$5,500	\$5,500
Curbs	LS	\$35,000	\$35,000
Asbuilt Plans/NPDES	LS	\$6,000	<u>\$6,000</u>
		Subtotal	\$102,500
~ 15% Engineering and Contingency			<u>\$15,375</u>
		Subtotal	\$117,875
~ 2.0% inflation per year for 2-years		TOTAL:	\$122,500

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Sincerely,

Thomas A Ryder
Assistant Town Engineer



**TOWN OF NEEDHAM, MASSACHUSETTS
PUBLIC WORKS DEPARTMENT
500 Dedham Avenue, Needham, MA 02492
Telephone (781) 455-7550 FAX (781) 449-9023**

June 24, 2021

Needham Planning Board
Public Service Administration Building
Needham, MA 02492

RE: Definitive Subdivision- Heather Lane Extension
768 and 768A Chestnut Street-Request for Bond to release Lots

Dear Members of the Board:

The Department of Public Works has conducted several inspections of the subdivision. Per your request the following is the estimate of the remaining work required for the above referenced project.

Our estimate to complete this work is calculated as follows:

<u>Item</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>
Final drive berm/seed	LS	\$5,500	\$5,500
Asphalt top course	LS	\$17,500	\$17,500
Asbuilt Plans/NPDES	LS	\$6,000	<u>\$6,000</u>
		Subtotal	\$29,000
~ 15% Engineering and Contingency			<u>\$3,350</u>
		Subtotal	\$33,350
~ 2.0% inflation per year for 2-years		TOTAL:	\$34,500

If you have any questions regarding the above, please contact our office at 781-455-7538.

Truly yours,

Sincerely,

Thomas A Ryder
Assistant Town Engineer

DRAFT

6.9 Outdoor Seating

6.9.1 Applicability

Section 6.9.2 shall apply in any business district in which restaurants serving meals for consumption on the premises and at tables with service provided by waitress or waiter is permitted under Section 3.2.2 of this By-Law.

6.9.2 Basic Requirements Seasonal Outdoor Seating

Seasonal temporary (i.e. April through October) outdoor seating, including but not limited to tables, chairs, serving equipment, planters, and umbrellas, for restaurants serving meals for consumption on the premises ~~and at tables with service provided by waitress or waiter~~ is permitted during normal hours of operation, subject to minor project site plan review with waiver of all requirements of Section 7.4.4 and 7.4.6 except as are necessary to demonstrate compliance with Section 6.9 by the Planning Board in the case of (a) below and the ~~Select Board Board of Selectmen~~ in the case of (b) below, provided that:

- (a) It is within the front yard, rear yard, or side yard of the restaurant's owned, licensed, or leased property, but only if said yard abuts a public right-of-way, public property, or other public uses, provided that:
 - (i) Such use is clearly related to the restaurant conducted inside the principal building;
 - (ii) A minimum width of forty-eight inches (48"), or as otherwise provided by law, shall be continuously maintained and unobstructed for the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the plan provided to the Planning Board;
 - (iii) Outdoor seating is prohibited in designated or required landscaped areas, parking lots, or drive aisles;
 - (iv) Such use does not obstruct or otherwise interfere with visibility at intersections;
 - (v) Except as otherwise provided in subsection (b), the outdoor seating must be on the same lot as the establishment; and;
 - (vi) During all operating hours and thereafter, the area of outdoor seating must be kept clean, including clearing of all tables and removal of all trash.
- (b) It is within the public sidewalk abutting the front, rear, or side yard of the restaurant's owned or leased property ~~so long as there remains no less than forty-eight inches (48"), or as otherwise permitted by law, of unencumbered sidewalk width remaining, or, alternatively,~~

on a public way or other public property abutting the front, rear, or side yard of the restaurant's owned or leased property, provided that:

- (i) No temporary outdoor restaurant seating shall be permitted, unless the Board of Selectman authorizes the placement of temporary outdoor seating within the public right-of-way, public sidewalks and/or on public property;
- (ii) Such use is clearly related to the restaurant conducted inside the principal building;
- (iii) A minimum width of forty-eight inches (48"), or as otherwise permitted by law, shall be continuously maintained and unobstructed for the sidewalk or entrance into the principal building, or any other designated sidewalks or pedestrian paths, as shown on the plan provided to the ~~Select Board~~Board of Selectmen;
- (iv) Outdoor seating is prohibited in designated or required landscaped areas, parking lots, or drive aisles;
- (v) Such use does not obstruct or otherwise interfere with visibility at intersections;
- (vi) The outdoor seating must be adjacent to the restaurant establishment and in front, to the rear, or to the side of, as the case may be, the front face of the restaurant's owned or leased property; and;
- (vii) During all operating hours and thereafter, the area of outdoor seating must be kept clean, including clearing of all tables and removal of all trash.

The Select Board may adjust or waive the requirements of item (b)(iv) for good cause, and where it finds that pedestrian and vehicular circulation, and the safety of restaurant patrons and the public, shall be adequately provided for. In granting relief under this provision, the Select Board shall hold a public hearing thereon. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting said notice in the Town Hall for a period of not less than fourteen days before the day of the hearing. Notice shall be sent by mail, postage prepaid, to parties in interest including the petitioner, abutters, owners of land directly opposite on any public or private street or way, owners of land within three hundred (300) feet of the property line including owners of land in another municipality all as they appear on the most recent applicable tax lists.

Items (a)(i), (a)(iii), (a)(v) and (b)(ii), (b)(iv), and (b)(vi) shall not apply during special town-wide festivals or events during the year as designated by the ~~Select Board~~Board of Selectmen.

Where there is authorization for the placement of seasonal temporary outdoor restaurant seating and where such seating could be interpreted to be an increase in the number of seats serving a restaurant, such seating shall not be counted toward the off-street parking or loading requirements, so long as they remain seasonal and temporary and do not increase capacity by more than thirty percent (30%).

Tentative Schedule for Outdoor Dining Fall Special Town Meeting

Tuesday July 20, 2021 – Planning Board to finalize language to include in legal notice

Vote to send language to Select Board

Tuesday July 20, 2021 – Select Board refer back zoning article to Planning Board.

Big gap here because both Select Board and Planning Board are not meeting. Potential to advance date of final zoning language completion by 2-3 weeks from July 20.

Friday August 13, 2021 – Send legal notice to the newspaper

Thursday August 19, 2021 – Post notice with Town Clerk, first run in newspaper

Thursday August 26, 2021 – second run in paper

Wednesday September 8, 2021 – Hearing date

Tuesday September 21, 2021 – finalize language for warrant at PB meeting

Friday October 1, 2021 - send final language to Town Manager office for warrant inclusion

Monday October 25, 2021 – tentative Fall Town Meeting date

From: [Lee Newman](#)
To: ["c.agualimpia@gmail.com"](mailto:c.agualimpia@gmail.com)
Cc: [Alexandra Clee](#); [Theodora Eaton](#)
Subject: FW: Firearms Stores Zoning - Needham
Date: Tuesday, June 15, 2021 10:43:18 AM

Carlos,

I received your email and will share it with the Planning Board. Presently, Needham's zoning by-law treats a gun store as a retail business which is a use allowed across a number of Needham's business districts by right. It appears that such was the case in Newton prior to the adoption of the recent change which converted the use to one only permitted by special permit with setback standards established to identified sensitive uses.

Thanks for your thoughtful email,

Lee Newman

From: Carlos Agualimpia <c.agualimpia@gmail.com>
Sent: Wednesday, June 9, 2021 3:16 PM
To: Theodora Eaton <TEaton@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Re: Firearms Stores Zoning - Needham

Tedi,

Thanks.

Lee,

An excerpt from Newton Mayor's newsletter, for your reference:

.....**"Strict Gun Store Zoning Passed and Signed**

Today I signed a zoning amendment passed by the City Council last night that strictly controls and limits gun stores in Newton.

The updated zoning importantly mandates that any potential firearm business seeking to locate in Newton apply for a Special Permit from the City Council which would then necessitate a two-thirds majority vote of the Council (16 out of 24 Councilors) to receive approval. The zoning amendment also incorporates buffer distances from residences and sensitive uses (e.g., day care centers and schools) resulting in only three primary, small potential locations.

The zoning amendment passed with a 23-1 vote.

As Councilor Josh Krintzman said last night, before last night's vote and prior to this restrictive zoning, a gun store could have opened in Newton on any one of 777 parcels of

land without approval of the City Council.

The zoning amendment officially will become “effective” in 20 days. But, it will apply retroactively to any uses that had not commenced or received a building permit by April 23, 2021, the date of first publication of the notice of the public hearing.”.....

Looking forward to your revert....

Regards,

Carlos

On Jun 9, 2021, at 2:20 PM, Theodora Eaton <TEaton@needhamma.gov> wrote:

Hello Carlos. I am fine and hope you are as well. I am forwarding you question to Lee Newman our Planning Director.

Take care!

Tedi

Get [Outlook for iOS](#)

From: Carlos Agualimpia <c.agualimpia@gmail.com>

Sent: Wednesday, June 9, 2021 10:32 AM

To: Theodora Eaton

Subject: Firearms Stores Zoning - Needham

Tedi,

Hi. Hope this email finds you safe and healthy. Can you please pass on the below inquiry to the Planning Board?

Thanks in advance....

Stay safe.

Carlos Agualimpia

Dear Planning Board,

As you might be aware, there has been a lot going on with Gun Store Zoning in Newton, with recent zoning legislation being approved. This note is to briefly inquire on what the current zoning regulation/legislation is for Gun Stores in Needham.

Thanks in advance for a prompt response.

Regards,

Carlos Agualimpia
Town Meeting Member
Precinct C



Ruthanne Fuller
Mayor

City of Newton, Massachusetts

Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

DATE: May 6, 2021

TO: Councilor Crossley, Chair
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Deputy Director of Planning and Development
Zachery LeMel, Chief of Long Range Planning

RE: #145-21 Request for Chapter 30 Amendment to establish regulations for gun establishments
HER HONOR THE MAYOR AND COUNCILORS ALBRIGHT, KRINTZMAN, LEARY, OLIVER, GREENBERG, NORTON, LUCAS, KELLEY, WRIGHT, MALAKIE, MARKIEWICZ, GENTILE, DOWNS, CROSSLEY, HUMPHREY, DANBERG, NOEL, BOWMAN, LAREDO, GROSSMAN, BAKER, LIPOF, KALIS AND RYAN requesting amendments to the Newton Zoning Ordinance, Chapter 30, including, but not limited to, the addition of definitions of "Firearm" and "Firearm Businesses", and amendments to Section 4.4.1 Allowed Uses and Section 6.10 Restricted Uses to regulate the use of land, structures and buildings for the siting and operation of gun ranges or the retail or wholesale operation involving gunsmithing, the purchase or sale of firearms, the sale of ammunition, or firearms accessories, and to restrict such uses to the Business 4, Mixed Use 1, Manufacturing, and Light Manufacturing Districts only and only upon the granting of a special permit, and to establish minimum standards and criteria for the granting of such special permits.

MEETING DATE: May 10, 2021

CC: City Council
Planning and Development Board
Jonathan Yeo, Chief Operating Officer
Alissa O. Giuliani, City Solicitor
John Lojek, Commissioner of ISD

Executive Summary

The City of Newton does not currently regulate the zoning for firearms business (or related uses). A firearm dealer would be considered a general retail use and would be allowed either by-right or by special permit in most business and mixed-use zones as well as the limited manufacturing zoning district. The City Council has broad authority to regulate all land uses in Newton, including the location of firearm dealers. Currently, the zoning ordinance identifies certain uses that are to be treated differently than other retail uses such as adult businesses and marijuana retailers. Firearm businesses represent another use that warrants specialized zoning regulations.

The subject docket item is a request to amend Newton's current zoning ordinance to restrict firearm businesses only to certain zoning districts, to require a special permit, and to provide minimum standards for those uses. Attached to this memo is a draft zoning ordinance for firearm businesses developed by the Law and Planning Departments, both a redlined version showing changes from the April 26th version and a clean version (**Attachments A and B**), and an updated frequently asked questions (FAQ) document from the Law Department, including responses to questions raised at the April 26th ZAP meeting (**Attachment C**). More information, including the maps showing zoning and buffer alternatives, can be found here:

<https://www.newtonma.gov/government/planning/plans-policies-strategies/firearms-zoning-amendment>. Staff reviewed a sampling of zoning ordinances and bylaws for firearm businesses from other municipalities both in and outside of Massachusetts. Zoning regulations for firearm businesses are not common and the only nearby communities that currently regulate firearm businesses through zoning that staff has found are Dedham and Westwood.

The key elements of the proposed ordinance are limiting firearm businesses to the certain zoning districts; always requiring a special permit (a discretionary approval from the City Council requiring a public hearing); requiring buffers from sensitive uses; and applying additional operational standards and criteria for approval. Based on feedback from the April 26th Zoning and Planning (ZAP) Committee meeting, City staff have analyzed various options including variations in the proposed zoning districts, the proposed buffer distances, and the sensitive uses to be buffered. Based on this analysis, Planning staff recommend allowing firearm businesses in the Business 2 (BU2), Business 4 (BU4) and Manufacturing (M) districts and requiring 150-foot buffers between all firearm businesses and properties containing a residential use, and a 1,000-foot buffers between all firearm businesses and k-12 schools, childcare facilities (including daycares and preschools), colleges and universities, parks and playgrounds, libraries, nursing homes and any existing firearm dealers or firing ranges. We have found these to be the most restrictive buffers that can be applied while still allowing for the opportunity for firearm businesses. The Mixed Use 1 (Needham Street) and Limited Manufacturing (Wells Avenue) districts were proposed in the draft ordinance presented at the April 26th ZAP meeting. These districts have been removed from the draft as they are fully covered by the recommended buffers.

Firearm Zoning Examples

Staff reviewed a sampling of zoning ordinances for firearm businesses in other municipalities in Massachusetts and beyond. Almost all ordinances require special approval for firearm businesses (a special permit in Massachusetts or a conditional use permit elsewhere). Below is a summary of the key points from other ordinances:

- Dedham, MA - Dedham recently passed a by-law regulating firearm sales.
 - Firearms businesses are limited to the Adult Use Overlay District
 - 150-foot buffer from a residential use or residential zoning district, school, library, church or other religious use, child-care facility, park, playground, recreational areas where large numbers of minors regularly travel or congregate, establishments selling alcohol for on-site consumption, and other adult use and firearms businesses.
- Westwood, MA
 - Firearms/Explosives sales and service are limited to the Local Business Districts, Highway Business District and Industrial District
 - Westwood does not appear to require specific buffers between firearms businesses and other uses, however most uses in the Highway Business and Industrial districts are required to provide a buffer from adjacent residential properties.
- Bloomington, MN – Bloomington regulates primary and incidental firearms sales and firing ranges.
 - Firearms sales are permitted in certain commercial districts; firing ranges are only permitted in some industrial districts.
 - 250-foot buffer from residential zoning districts, daycares, and k-12 schools.
 - Primary firearm sales must also be 1,000 feet from another primary firearm sales facility.
- Piscataway, NJ
 - Firearm sales to certain commercial districts.
 - 1,000-foot buffer from nursery schools, preschools, child, adult and special needs day care centers, schools, colleges and universities, funeral homes, health services facilities, other firearms sales dealers, assisted living facilities, places of worship, liquor stores, establishments selling alcohol for onsite consumption, and parks, playgrounds and commercial recreational facilities.
- Contra Costa, CA
 - 500-foot buffer from schools, daycares, parks, establishments that have on-site or off-site alcohol sales, places of worship, and existing firearm sales facilities.
- Windsor, CA
 - 500-foot buffer from parks, libraries, churches, personal services, and preschools.
 - 1,000-foot buffer from all schools.
- Healdsburg, CA

- 500-foot buffer from churches, chapels, places of worship, schools, libraries, youth centers, commercial day care establishments, parks, and other locations with firearm sales.
- McCordsville, IN
 - Firearm sales limited to a medium intensity industrial district.
 - 200-foot buffer zone from any school.
- Worcester, MA – Worcester only regulates shooting ranges
 - 1,000-foot buffer from schools and a 100 foot buffer from a public park or playground. Worcester does not appear to regulate firearm sales.

Notably, zoning regulations for firearm businesses are rare and we have found few examples in Massachusetts so far. Most of our neighboring communities do not appear to regulate firearm businesses through zoning. Staff reviewed zoning ordinances for the following Massachusetts communities: Acton, Arlington, Ashland, Bedford, Belmont, Beverly, Bolton, Boston, Boxborough, Braintree, Brockton, Burlington, Carlisle, Cambridge, Chatham, Chelsea, Concord, Danvers, Dedham, Dover, Essex, Everett, Fall River, Fitchburg, Framingham, Gloucester, Hamilton, Holliston, Hudson, Ipswich, Lexington, Lincoln, Littleton, Lynn, Lynnfield, Malden, Manchester-by-the-Sea, Marblehead, Medfield, Medford, Medway, Melrose, Middleton, Milton, Nahant, Natick, Needham, North Reading, Norwood, Peabody, Quincy, Reading, Revere, Rockport, Salem, Saugus, Sherborn, Stoneham, Stoughton, Sudbury, Swampscott, Topsfield, Wakefield, Watertown, Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington, Winchester, Winthrop, Woburn, and Worcester. Of these communities, the only ones that regulate firearms sales were Dedham and Westwood. Framingham excludes firing ranges from the definition of outdoor recreational facilities and North Reading prohibits gun and shooting clubs in their Highway Business zoning district. Everett appears to have regulated gun shops previously, but they are no longer included after a big rezoning in 2020.

Ordinance Framework

The proposed draft ordinance draws from firearms zoning regulations from other municipalities as well as the City's existing ordinances regulating adult businesses and marijuana uses. The draft ordinance defines terms related to firearm business uses not currently included in our zoning ordinance, such as ammunition, firearm, firearm accessory, firearm dealer, firing range, and gunsmith and proposes that the uses only be permitted by special permit and only in certain districts. In the prior draft, firearm sales were defined as a firearm business. To avoid confusion with the larger use category of firearm business uses, firearm sales are now defined as a firearm dealer. The ordinance also identifies sensitive uses from which a firearm business use should be buffered from, the minimum distances required between sensitive uses and firearm businesses, provides additional operational standards, includes required application materials, and identifies new special permit criteria which must be met in addition to the general special permit criteria.

Zoning Districts

Currently in Newton, a firearm dealer would be classified under zoning as a retail use. Retail uses are currently permitted, either by-right or by special permit in the Business 1 (BU1), Business 2 (BU2), Business 3 (BU3), Business 4 (BU4), Mixed Use 1 (MU1), Mixed Use 2 (MU2), Mixed Use 4 (MU4), Mixed Use 3 (MU3), and Limited Manufacturing (LM) zoning districts. The MU1 district only allows for retailers with more than 5,000 square feet. The attached zoning amendment recommends limiting firearm business uses to the BU2, BU4, and Manufacturing (M) zones. The initial proposal discussed at the April 26th ZAP meeting recommended the BU4, MU1, LM, and M zoning districts. Several City Councilors recommended expanding the zoning districts but applying more restrictive buffers. Planning staff added in the BU2 district as it provided additional opportunity and removed the MU1 and LM districts because once the recommended buffers are applied there are no areas remaining within these districts. This combination of zoning districts provided the ability to apply the most restrictive buffers from sensitive uses.

Other zoning districts were also considered but not ultimately recommended. The BU1 district is typically limited to the core of village centers, which are not considered appropriate locations for firearm businesses. The BU3 district is not mapped and the BU5 district only exists in a couple locations and would be largely eliminated by buffers. The MU2 district is a small portion of Needham Street that immediately abuts residential properties and a park. The MU3 district is only located at Riverside Station where the proposed development includes retail spaces on the ground floor of buildings with residential units above. The MU4 district is only mapped at locations where there has been a rezoning in conjunction with a mixed-use multifamily building in a village center, such as 28 Austin Street and Trio at Washington and Walnut Streets. The MU4 district also requires active, transparent uses on the ground floor and residential units above.

Planning staff considered the suggestion to explore an overlay district for firearm businesses. An overlay was not considered in the docket or public hearing notice for this item and would require a new public hearing notice. The City of Newton does not currently have any overlay districts so introducing a new tool could also take additional time. Additionally, an overlay district does not solve the problem of Newton having very few commercial areas and even fewer that are not immediately surrounded by residential or other sensitive uses. The proposed districts along with the buffers represent a balance of providing opportunities while also distributing those across the City as much as possible given the locations of commercial zoning districts and providing sufficient buffering from sensitive uses. The zoning districts also represent a starting point and are not an indication that every remaining building located outside of a buffer would be an appropriate location for a firearm business. Any firearm business will still require a Special Permit and the City Council has the authority to determine whether the proposed business is appropriate in the given location.

Standards

The proposed draft ordinance includes additional standards for firearm businesses. These include:

- Requiring compliance with all federal, state and local laws and regulations;
- Prohibiting graphics, symbols, or images of firearms or firearm accessories from being displayed or visible from the exterior of the business;
- Prohibiting a firearm business from locating within a building containing a residential use;
- Requiring all firearm businesses to be located within a fully enclosed building;
- Giving the City Council authority to review and impose restrictions on signage;
- Limiting hours of operation to 9 a.m. to 9 p.m. with the ability to further restrict as part of the Special Permit review;
- Requiring the submittal of a security plan for review and approval by the Newton Police Department, including security provisions, physical layout of the interior, how firearms will be secured outside business hours, number of employees;
- Requiring submittal of an operations and management plan for review and approval by the Newton Police Department;
- Requiring the firearm business to conduct criminal background checks for all employees.
- Restricts unaccompanied minors from entering a firearm business; and
- Requires all firearm dealers to videotape the point of sale of all firearm transactions and maintain videos for six months.

At the April 26th ZAP meeting several City Councilors expressed a desire to restrict or prohibit transparency into firearm businesses as well as to limit businesses to the upper floors of buildings. Planning staff consulted with the Newton Police Department, who strongly advised against any restrictions on transparency or locations other than the ground floor. The police recommended that firearm businesses, particularly firearm dealers, be located in visible locations and that visibility into the business be maintained for safety purposes. Maintaining visibility increases safety as there are more eyes on the business and police can more easily monitor the store and can see into the store prior to entering if they are ever called to the scene, such as for a robbery. State law also prohibits firearms from being visible from the street, so it is unnecessary to put restrictions on visibility.

Additional Firearm Regulations

Firearm sales are highly regulated in Massachusetts and all state and Federal requirements will remain in effect. Some key aspects of firearm regulations include a ban on the sale of assault weapons, a requirement that all firearms within stores are secured in a locking container or by equipping the firearm with a tamper-proof locking mechanism, a firearms dealer is prohibited from displaying firearms in the window of a store, and the Police Department is the local licensing authority and is required to review and approve any license to sell firearms and to ensure all required safety measures are in place as well as perform annual inspections of a

dealer's sales records. All firearm businesses will be subject to all other applicable local and state ordinances and regulations as well, such as noise limitations, hazardous waste removal, parking requirements, etc. More information can be found in the attached FAQ as well as here: [Firearms Zoning Amendment | City of Newton, MA](#).

Special Permit Application

Application Requirements

Under the proposed ordinance, all firearm businesses will require a Special Permit from the City Council. As part of the application, and in addition to the standard application requirements, applicants for a firearm business will be required to submit the following:

- Narrative providing a description of the proposed activities;
- Lighting analysis;
- Context map showing all properties and land uses within a 1,000-foot radius;
- Description of ownership, management and employees
- Comprehensive sign plan.

Depending on the nature of the application the City Council may also request additional information through the special permit review process. Firing ranges are required to show they will not result in adverse impacts due to noise, hazardous materials, or air quality, which will likely require the submittal of additional studies and analyses. Additional plans such as those showing landscaping, screening, and/or loading areas may also be requested.

Special Permit Criteria

All firearm businesses will require a Special Permit from the City Council. A Special Permit is a discretionary approval, meaning even if a business is located in an allowed district, outside of the buffers, and meets all of the standards listed above, the City Council still has the discretion to deny the request if they find the business does not meet the required criteria.

All Special Permits require the City Council to make a finding that the proposed application meets all of the following criteria:

- The specific site is an appropriate location for such use, structure;
- The use as developed and operated will not adversely affect the neighborhood;
- There will be no nuisance or serious hazard to vehicles or pedestrians; and
- Access to the site over streets is appropriate for the types and numbers of vehicles involved.

In addition to the standard criteria for all Special Permits, the draft ordinance adds the following additional criteria for all firearm businesses:

- The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot;
- The location will have adequate and safe storage, security, and a lighting system;

- Loading, refuse, and service areas are designed to be secure and shielded from abutting uses;
- The establishment is designed to minimize any adverse impacts on abutters; and
- The establishment has satisfied all of the conditions and requirements of this section.

Firing ranges will also need to meet this additional criterion:

- The use will not result in adverse impacts due to noise, hazardous materials, or air quality.

Buffers

In addition to restricting the number of zoning districts where a firearm business may locate and requiring a Special Permit for all firearm businesses, establishing reasonable buffers are another tool to help ensure compatibility between a proposed firearm business and surrounding uses.

Buffer Comparisons

Most of the firearm zoning regulations reviewed contained buffers from sensitive uses. The buffers reviewed range from 150 feet to 1,000 feet depending on the size of the community and the category of sensitive use. Sensitive uses also varied though all included schools, most included daycares, parks, and playgrounds, and some also included buffers from residential uses and/or residential districts. Buffers from residential uses or districts were the smallest at 150 – 250 feet. Newton’s current zoning ordinance also requires a 500-foot buffer between adult businesses and the nearest school, religious use, public park intended for passive or active recreation, youth center, day care facility, family day care facility, center for child counseling, great pond, or navigable river and 150 feet from any residential property line. Additionally, adult businesses must maintain a 1,000-foot buffer from any other adult business within the City or an adjacent municipality and from any zoning district that allows for an adult business in an adjacent municipality. Marijuana retailers and medical marijuana treatment centers are also required to be at least 500 feet from k-12 public and private schools and a half mile from other marijuana retailers and medical marijuana treatment centers.

Buffer Analysis

Based on feedback from the April 26th ZAP meeting, staff analyzed different combinations of sensitive uses and buffer distances. The following buffer distances and sensitive uses were analyzed:

- 100-foot, 150-foot, 250-foot, and 500-foot buffers from properties containing a residential use
- 500-foot and 1,000-foot buffers from k-12 schools, daycare centers, preschools, child-care facilities, land or structures used for religious purposes, libraries, nursing homes, marijuana retailers, and establishments with a liquor license

Staff reviewed different iterations in order to find the most effective combination of buffer distances and sensitive uses. Residential uses and schools were prioritized first then other uses where children would be expected to congregate. Given the residential nature of the city, the residential buffers had the largest effect of eliminating potential properties. In the ordinances reviewed, residential buffers were not very common and were typically smaller than other buffers. Several residential buffers were analyzed ranging from 100 feet to 500 feet and both 500-foot and 1,000-foot buffers were analyzed for all other sensitive uses.

The first draft of the ordinance required that buffer distances be measured from the property line of the firearm business to the property line of the sensitive use. When doing the mapping analysis, we found that under all scenarios there were few, if any, entire parcels that remained outside of the buffers. The attached draft ordinance has been revised to require the measurement be taken from the building containing the firearm business to the property line of the sensitive use. As currently written, this would mean that even if there are multiple tenants in a building, no point on the building could be within the minimum buffer distance from a property containing a sensitive use.

Recommendation

After careful analysis of various combinations of zoning districts, buffer distances, and sensitive uses the Planning Department recommends including the BU2, BU4 and M districts with a 150-foot buffer between any firearm business and any property containing a residential uses and a 1,000-foot buffer from between any firearm business and any public and private k-12 school, daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home or existing firearm dealer or firing range. The only suggested sensitive uses not included are marijuana retailers and establishments with a liquor license. When those uses are added they eliminate all possible opportunities (see Alternative 3 below). The recommended proposal limits firearm businesses to a portion of Route 9 in Chestnut Hill and part of the area near the Waltham border at Rumford Avenue and Riverview Avenue and provides for the largest buffers of any of the firearm zoning ordinances reviewed. The map illustrating the recommended zoning districts and buffers can be found [here](#).

Alternatives Analysis

The maps linked below illustrate several of the alternatives analyzed by the Planning Department but ultimately not recommended.

Alternative 1: <https://www.newtonma.gov/home/showpublisheddocument/69406>

Alternative 1 provides the most opportunity for firearm businesses and most closely aligns with the buffers required for adult businesses in Newton. This alternative is not recommended as a more restrictive option is feasible.

- BU2, BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use

- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

Alternative 2: <https://www.newtonma.gov/home/showpublisheddocument/69408>

Alternative 2 is the same as Alternative 1, except the BU2 zone is not included and the proposed zoning districts align with those in the April 26th proposal. Alternative 2 provides fewer opportunity areas than Alternative 1 (and the number of existing buildings that are fully outside of buffers would further reduce the available areas) while providing smaller buffers than the recommended alternative.

- BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

Alternative 3: <https://www.newtonma.gov/home/showpublisheddocument/69412>

Alternative 3 is the same as Alternative 1, except marijuana retailers and establishments with a liquor license are included in the list of sensitive uses. When buffers are applied to these additional sensitive uses only small slivers of sites are left and no existing buildings are fully outside of the buffers, making this alternative unfeasible.

- BU2, BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home, marijuana retailer or establishment with a liquor license

Alternative 4: <https://www.newtonma.gov/home/showpublisheddocument/69414>

Alternative 4 is the same as Alternative 1, except a larger residential buffer is included. While there are still a few areas that are outside of the buffers, with the larger residential buffer far fewer buildings are located outside of the buffers and the buffer around the other sensitive uses is still smaller than the recommended alternative.

- BU2, BU4, M, LM, MU1 zoning districts
- 250-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 500-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

Alternative 5 – Recommended Alternative (also discussed above):

<https://www.newtonma.gov/home/showpublisheddocument/69410>

Alternative 5 is the same as Alternative 1, except a 1,000-foot buffer is used for all non-residential sensitive uses. Planning Staff recommend this alternative as it limits the possibility of a firearm business to just two areas of the city – part of Route 9 in Chestnut Hill and part of the area near the Waltham border at Rumford Avenue and Riverview Avenue. In this alternative there are fewer locations shown across the city than Alternative 4 (with the larger residential buffer but smaller buffer from all other uses) but within those areas there are an adequate number of buildings located outside of the buffers.

- BU2, BU4, M, LM, MU1 zoning districts
- 150-foot buffer from any property containing a residential use
- 1,000-foot buffer from public and private k-12 schools
- 1,000-foot buffer from any daycare center, preschool, childcare facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library or nursing home

Summary

Planning staff finds that the revised draft ordinance, including the zoning districts and buffers shown in Alternative 5 balance the Constitutional protections for firearms, the Police Department's desire to have firearm businesses be as visible as possible, and the community and City Council's desire to restrict firearm businesses as much as possible from sensitive uses. It is unlikely that further zoning or buffer restrictions would withstand a legal challenge. The recommended proposal draws from ordinances and best practices from across the country and if adopted, would be the most robust firearm zoning ordinance in the region. It also is still only a starting point, and any firearm business seeking to locate in Newton would still require a Special Permit. As part of the Special Permit process the City Council would hold at least one public hearing, would have the ability to ask for more specific studies and analysis, and would have the discretion to deny an application if it did not meet the required criteria or add conditions to any potential approval of an application.

Next Steps

A public hearing will be held by the Zoning and Planning Committee at 7 p.m. on May 10, 2021.

ATTACHMENT A: Proposed Draft Firearm Business Ordinance Redline
 ATTACHMENT B: Proposed Draft Firearm Business Ordinance Clean
 ATTACHMENT C: Firearm Frequently Asked Questions – May 6, 2021

Section 4.4. ALLOWED USES

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Firearm Business	--	SP	--	SP	--	SP	--	--	--	SP	SP	Sec. 6.10.4
Firing Range	--	SP	--	SP	--	SP	--	--	--	SP	SP	Sec. 6.10.4
Gunsmith	--	SP	--	SP	--	SP	--	--	--	SP	SP	Sec. 6.10.4

6.10.4. FIREARM BUSINESS USES

A. **Purpose.** To establish criteria for the establishment of Firearm Business Uses in the City that address safety concerns in operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Sec. 6.10.4 provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare.

B. **Definitions.**

Ammunition. Cartridges or cartridge cases, primers (igniter), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm.

Firearm. Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to a gun, pistol or rifle.

Firearm Accessory. Any device designed, modified or adapted to be inserted into or affixed onto any Firearm to enable, alter or improve the functioning or capabilities of the Firearm or to enable the wearing or carrying about one's person of a Firearm.

Firearm Business Uses. Any of the following uses:~~shall include the following:~~

1. **Firearm Dealer Business.** A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
2. **Firing Range.** A commercial facility designed for Firearm(s) training and/or shooting practice.
3. **Gunsmith.** Any retail operation involving the repairing, altering cleaning, polishing, engraving, blueing or performing of any mechanical operation on any Firearm.

C. **Firearm Business Uses not allowed as-of-right.** Firearm Business Uses are not included within the definition of retail sales or services, manufacturing, or any other lawful

business permitted as of right or by special permit as provided in this Chapter.

D. **Firearm Business Uses allowed by special permit.** Use of land, buildings or structures for a Firearm Business Use, Firing Range, or Gunsmith shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.4.

E. **Minimum criteria and limitations on approval.**

1. A Firearm Business ~~Uses, Firing Range, or Gunsmith~~ shall not be located within a radius of 150 feet from any property containing a residential ~~property line~~ use.
2. Firearm Business Uses shall not be located within 1,000 feet of any private or public k-12 school.

~~3.~~ Firearm Business Uses shall not be located within 1,000 feet of any daycare center, preschool, child-care facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home, or an existing ~~another~~ Firearm Dealer or Business, Firing Range at another location, or Gunsmith, unless

~~4.3.~~ All distances in this Section shall be measured in a straight line from any point on the building containing the ~~the nearest property line of the~~ proposed Firearm Business Use, Firing Range, or Gunsmith to the nearest property line of any of the designated uses set forth herein.

~~5.4.~~ In appropriate circumstances, the City Council may grant a special permit for a Firearms Business Use even if the location of the proposed use does not comply with the buffer requirements set forth in Sec. 6.10.4.E.1-3 herein, but only upon a finding that the proposed location the City Council finds that such Firearm Business, Firing Range, or Gunsmith is sufficiently buffered by existing conditions such that the uses enumerated in paragraph Sec. 6.10.4.E.1-3 ~~se facilities or uses~~ will not be adversely impacted by the Firearm Business Use.

~~6.5.~~ A Firearm Business ~~Uses, Firing Range, or Gunsmith~~ shall obtain and maintain all necessary Federal, State and other required local approvals and licenses prior to beginning operations.

~~7.6.~~ A Firearm Business ~~Uses, Firing Range, or Gunsmith~~ shall comply with all applicable Federal, State and local laws and regulations in the operation their business.

~~8.7.~~ A special permit granted by the City Council authorizing the establishment of a Firearm Business ~~Use, Firing Range, or Gunsmith~~ shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the Firearm Business Use, Firing Range, or Gunsmith has been authorized by the special permit.

~~9.8.~~ No graphics, symbols or images of Firearms, Ammunition, or Firearm Accessories shall be displayed or clearly visible from the exterior of ~~the~~ Firearm Business Uses, Firing Range, or Gunsmith. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

~~10.9.~~ No Firearm Business ~~Use, Firing Range, or Gunsmith~~ shall be located within a building containing a residential use.

~~11.10.~~ A Firearm Business shall be located indoors within a fully enclosed building.

~~12.11.~~ The hours of operation for a Firearm Business Use shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall any Firearm Business Use be open before 9:00 a.m. or remain open after 9:00 p.m. Uses shall not be open to the public between the hours of 11:30 p.m. and 6:00 a.m. The City Council may, as a special permit condition, further limit the hours of operation of a Firearms Business Use to mitigate any adverse impacts on nearby uses.

12. A special Permit for a Firearm Business ~~Use, Firing Range, or Gunsmith~~ shall not be granted if such business is owned by or to be managed by any person or persons convicted of violating the provisions of G.L. c. 140, §§ 122B, 130, 131N, or similar laws in other states.

13. All Firearm Business Uses shall submit a security plan to the Newton Police Department for review and approval. The plan must include, but not be limited to, the following:

- a. Proposed provisions for security.
- b. The physical layout of the interior.
- c. After hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
- d. The number of employees.

14. All Firearm Business Uses shall submit an operations and management plan to the Newton Police Department for review and approval.

15. All Firearm Business Uses shall conduct criminal background checks for all employees in accordance with state law.

16. No persons under the age of 18 shall have access into or within a Firearms Business Use, with the sole exception that minors age 14 and older may access a Firearms Dealer accompanied by an adult.

17. Firearms Dealers shall videotape the point of sale of all firearms transactions and maintain videos for six months to deter illegal purchases and monitor employees.

F. **Special permit application and procedure.** The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit for a Firearm Business Use shall include, at a minimum, the following information:

1. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site.
2. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
3. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot, ~~whether such uses are located in the City or within~~

~~surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs.~~ The context map shall include the measured distance to all uses described in Sec. 6.10.4.E.1 paragraph E.1 above.

4. **Description of Ownership, Management, and Employees:** The name and address of the legal owner of the establishment. The name and address of all persons having any legal, beneficial, equitable, or security interests in the use. In the event that a corporation, partnership, trust or other entity is listed, the name, and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name and address of the manager(s) and assistant manager(s).

3.5.Comprehensive Signage Plan.

- G. **Special Permit Criteria.** In granting a special permit for a Firearm Business Use, Firing Range, or Gunsmith, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

1. Criteria for all Firearm Business Uses:

- a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot.

~~a.b.~~ The establishment will have adequate and safe storage, security, and a lighting system.

~~b.c.~~ Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

~~c.d.~~ The Firearm Business, Firing Range, or Gunsmith establishment is designed to minimize any adverse impacts on abutters.

c. The Firearm Business, Firing Range, or Gunsmith establishment has satisfied all of the conditions and requirements in this section.

2. Additional Criteria for Firing Ranges:

~~d.a.~~ The use will not result in adverse impacts due to noise, hazardous materials or air quality.

- H. **Severability.** If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

Section 4.4. ALLOWED USES

4.4.1. Business, Mixed Use & Manufacturing Districts

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Firearm Business	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4
Firing Range	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4
Gunsmith	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4

6.10.4. FIREARM BUSINESS USES

A. **Purpose.** To establish criteria for the establishment of Firearm Business Uses in the City that address safety concerns in operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Sec. 6.10.4 provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare.

B. **Definitions.**

Ammunition. Cartridges or cartridge cases, primers (igniter), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm.

Firearm. Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to a gun, pistol or rifle.

Firearm Accessory. Any device designed, modified or adapted to be inserted into or affixed onto any Firearm to enable, alter or improve the functioning or capabilities of the Firearm or to enable the wearing or carrying about one's person of a Firearm.

Firearm Business Use. Any of the following uses:

1. **Firearm Dealer.** A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
2. **Firing Range.** A commercial facility designed for Firearm(s) training and/or shooting practice.
3. **Gunsmith.** Any retail operation involving the repairing, altering cleaning, polishing, engraving, blueing or performing of any mechanical operation on any Firearm.

C. **Firearm Business Uses not allowed as-of-right.** Firearm Business Uses are not included within the definition of retail sales or services, manufacturing, or any other lawful

business permitted as of right or by special permit as provided in this Chapter.

D. Firearm Business Uses allowed by special permit. Use of land, buildings or structures for a Firearm Business Use shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.4.

E. Minimum criteria and limitations on approval.

1. Firearm Business Uses shall not be located within a radius of 150 feet from any property containing a residential use.
2. Firearm Business Uses shall not be located within 1,000 feet of any private or public k-12 school.
3. Firearm Business Uses shall not be located within 1,000 feet of any daycare center, preschool, child-care facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes, library, nursing home, or an existing Firearm Dealer or Firing Range at another location. All distances in this Section shall be measured in a straight line from any point on the building containing the proposed Firearm Business Use to the nearest property line of any of the designated uses set forth herein.
4. In appropriate circumstances, the City Council may grant a special permit for a Firearms Business Use even if the location of the proposed use does not comply with the buffer requirements set forth in Sec. 6.10.4.E.1-3 herein, but only upon a finding that the proposed location is sufficiently buffered by existing conditions such that the uses enumerated in paragraph Sec. 6.10.4.E.1-3 will not be adversely impacted by the Firearm Business Use.
5. Firearm Business Uses shall obtain and maintain all necessary Federal, State and other required local approvals and licenses prior to beginning operations.
6. Firearm Business Uses shall comply with all applicable Federal, State and local laws and regulations in the operation their business.
7. A special permit granted by the City Council authorizing the establishment of a Firearm Business Use shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the Firearm Business Use has been authorized by the special permit.
8. No graphics, symbols or images of Firearms, Ammunition, or Firearm Accessories shall be displayed or clearly visible from the exterior of Firearm Business Uses. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.
9. No Firearm Business Use shall be located within a building containing a residential use.
10. A Firearm Business shall be located indoors within a fully enclosed building.
11. The hours of operation for a Firearm Business Use shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall any Firearm Business Use be open before 9:00 a.m. or remain open after 9:00 p.m.

12. A special Permit for a Firearm Business Use shall not be granted if such business is owned by or to be managed by any person or persons convicted of violating the provisions of G.L. c. 140, §§ 122B, 130, 131N, or similar laws in other states.
13. All Firearm Business Uses shall submit a security plan to the Newton Police Department for review and approval. The plan must include, but not be limited to, the following:
 - a. Proposed provisions for security.
 - b. The physical layout of the interior.
 - c. After hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
 - d. The number of employees.
14. All Firearm Business Uses shall submit an operations and management plan to the Newton Police Department for review and approval.
15. All Firearm Business Uses shall conduct criminal background checks for all employees in accordance with state law.
16. No persons under the age of 18 shall have access into or within a Firearms Business Use, with the sole exception that minors age 14 and older may access a Firearms Dealer accompanied by an adult.
17. Firearms Dealers shall videotape the point of sale of all firearms transactions and maintain videos for six months to deter illegal purchases and monitor employees.

F. **Special permit application and procedure.** The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit for a Firearm Business Use shall include, at a minimum, the following information:

1. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site.
2. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
3. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot. The context map shall include the measured distance to all uses described in Sec. 6.10.4.E.1 above.
4. **Description of Ownership, Management, and Employees:** The name and address of the legal owner of the establishment. The name and address of all persons having any legal, beneficial, equitable, or security interests in the use. In the event that a corporation, partnership, trust or other entity is listed, the name, and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name and address of the manager(s) and assistant manager(s).
5. **Comprehensive Signage Plan.**

G. **Special Permit Criteria.** In granting a special permit for a Firearm Business Use, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

1. Criteria for all Firearm Business Uses:
 - a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot.
 - b. The establishment will have adequate and safe storage, security, and a lighting system.
 - c. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
 - d. The establishment is designed to minimize any adverse impacts on abutters.
 - e. The establishment has satisfied all of the conditions and requirements in this section.
2. Additional Criteria for Firing Ranges:
 - a. The use will not result in adverse impacts due to noise, hazardous materials or air quality.

H. **Severability.** If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

**LAW DEPARTMENT RESPONSES TO CITY COUNCILOR QUESTIONS FROM
ZONING AND PLANNING COMMITTEE MEETING HELD ON APRIL 26, 2021**

May, 6, 2021

Under the proposed zoning, how many votes will be required for the issuance of a Firearm Business Use special permit by the City Council?

All special permits for Firearm Business Uses will require a two-thirds vote of the City Council.

Can the City limit the number of Firearm Business Uses?

An interpretation of state law suggests that the City Council has the authority to limit the number of firearm dealer licenses issued pursuant to state law through adoption of a general ordinance. The Law Department is currently drafting an ordinance for Council review.

Can the City prohibit off-site signage for Firearm Business Uses?

The City only has the authority to regulate signage located within the City. The City's Zoning Ordinance already prohibits non-accessory signs on private property. Signs for businesses are regulated and only permitted on the premises of the business itself. This means that no businesses can have off-site signage in Newton. The City, however, does not have the authority to prohibit a business located in Newton from erecting signage outside of the City.

Can the City limit or prohibit signage on-site at a Firearm Business Use?

The City cannot completely ban signage on site, but the City Council may impose some reasonable limitations as to size and location through its discretionary special permit review process. The proposed ordinance also prohibits the exterior display of graphics, symbols, or images of firearms and ammunition.

Can the City require additional security on-site at a Firearm Business Use? Can the City require firearm purchases be made by appointment only?

Additional requirements have been added to the draft ordinance to address security in greater detail. For example, all applicants must submit a security plan to the Newton Police Department for review and approval and conduct employee background checks in accordance with state law. A required finding has also been added to ensure any Firearm Business Use takes all appropriate safety measures: in order for the City Council to issue a special permit it must first determine that the business has adequate and safe storage, security, and lighting.

As part of the discretionary special permit review process, the City Council has broad authority to impose additional conditions and requirements on the use and operation as necessary to ensure the

business meets the special permit standards. While the proposed zoning ordinance does not require that all Firearm Business Uses operate on an appointment only basis, that is a valid consideration for the City Council to evaluate during the special permit process and require when appropriate.

If a specific provision of the firearm zoning amendment is overturned by a court challenge, will the remainder of the ordinance remain valid?

The draft ordinance does include a “severability provision” that seeks to protect the validity of any portion of the firearm ordinance not specifically ruled invalid.

Can the City tax firearm sales?

The City does not have the authority to impose a local tax on the sale of firearms. Under state law, the City does not have the power to assess taxes unless explicitly authorized by the State Legislature. For example, state law explicitly authorizes the City to collect a local tax option on the retail sale of marijuana. There is no statutory authority permitting the City to assess a local tax on firearm sales.

The current proposed zoning amendment prohibits a Firearm Business Use from opening within a certain buffer to specific land uses, such as childcare facilities. Will those specified land uses be prohibited from locating within the buffer of an existing Firearm Business Use?

No. The proposed restriction against a Firearm Business Use from opening within a certain proximity of other specified uses only applies against the proposed Firearm Business Use at the time it receives a special permit. For example, a childcare facility that wishes to open within the buffer of an existing Firearm Business Use retailer may do so.

Can the City ban firing ranges?

In light of the implications of Constitutional protections and the current legal landscape, it is likely that a complete ban would ultimately be deemed unconstitutional.

Regulation of Firearms Dealers – FAQs

Updated April 23, 2021

How can residents learn about developments concerning firearms dealers in Newton?

The City's Department of Planning & Development Department has created a webpage with relevant information that is updated regularly and can be found by clicking [here](#). This FAQ document is located at the same link and will be updated periodically with the latest information in an effort to remain open and transparent.

ZONING AND REGULATION OF FIREARMS DEALERS

Does Newton have any zoning regulations around firearms dealers?

The City of Newton currently does not have any zoning regulations around firearms dealers. Firearms dealers fall within the general use category of "retail sales" that is currently allowed by right in all Business Use zoning districts, by special permit in the Limited Manufacturing District, and either by right or by special permit – depending on the size of the retail store – in the Mixed Use districts.

What options does Newton have to regulate firearms dealers through zoning?

The City Council has broad authority to regulate all land uses in Newton, including the location of firearms dealers. That said, in light of the nature of the issues and the implications of Constitutional protections, it may be reasonable to expect that the more restrictively firearm sales are regulated, the more likely such regulations will be subject to a court challenge.

What steps are currently being taken by the City to address firearms dealers?

On Friday, April 16, the Mayor and all 24 City Councilors jointly docketed an amendment to the City's zoning ordinance that would restrict all firearms dealers and related uses to the following zoning districts: Business Use 4, Mixed Use 1, Manufacturing, and Light Manufacturing. The proposed amendment also requires all firearm businesses to be approved by special permit by the City Council. It will create specific special permit criteria, including a buffer zone between a firearms dealer and residences and schools. A copy of the text of the proposed zoning amendment will be posted on the Planning Department website [here](#) on Friday, April 23.

What is the City Council process for reviewing the proposed zoning amendments?

It is the role of the City Council, as the City's legislative body, to approve all zoning ordinances and amendments. The review and approval process is dictated by the State Zoning Act, Chapter 40A. In accordance with the required process, the City Council assigned the proposed zoning amendment to the Zoning and Planning Committee (ZAP). The Zoning and Planning Committee will hold a public hearing on the proposed amendment on Monday, May 10, 2021. At the public hearing, the Council will hear input from the public. It will then discuss the draft language, potentially make revisions, and ultimately recommend that matter to the full City Council for a final vote to approve the zoning amendments.

Prior to the opening of the public hearing, ZAP will hold a committee discussion of the proposed zoning amendments at its regularly scheduled meeting on Monday, April 26, 2021. There will not be an opportunity for public comment at that meeting.

If and when the proposed zoning ordinances are passed, will they apply retroactively?

In general, zoning is prospective and would not limit ongoing uses and businesses that are already operating. However, the State Zoning Act, does state that any approved zoning amendment will apply to any use/business that has not commenced prior to the publication of notice of the public hearing for the zoning amendment.

The City Council is providing the first required notice of the May 10 public hearing in the newspaper on Friday, April 23. Practically speaking, if there is a proposed firearm business that has not started operating by that date, it will be subject to the proposed zoning amendments whenever those amendments are passed.

What is the current zoning status of the proposed firearms dealer that is seeking to operate at a location on Washington Street in Newton?

While a firearms dealer is currently an allowed by right use at the current proposed location of 709 Washington Street, the City's Department of Inspectional Services (ISD) still requires new businesses to apply for and receive an occupancy permit before commencing operation in a new location. This review is necessary to ensure the building and the use are in compliance with the City's zoning ordinance, the State building code, and other applicable codes, such as the State fire code.

In addition, when a new business opens at a location that was not previously designed for that type of use (as in this instance the proposed location was previously a dry cleaner) interior improvements or renovations are often necessary and must be undertaken pursuant to a building permit issued by ISD. Recently, ISD learned that extensive interior renovations were being conducted at the proposed location without the benefit of a building permit. After observing the property on April 20, 2021, the Commissioner of ISD issued a Stop Work Order for violations under the State Building Code. As a result, no further construction work can continue at this location until a building permit is applied for and issued by ISD. As of today, ISD has not received any applications for a building permit or an occupancy permit concerning this property. ISD is required by state law to process building permits within 30 days of the filing of an application.

At this time, a firearms dealer cannot begin operating at this location until these issues are resolved. The business owner must apply for and be issued a building permit, the outstanding building code violations must be remedied, and an occupancy permit must be issued before any business can commence operation.

Is a firearms dealer allowed to begin operating after the public notice date of April 23, 2021 but before the zoning amendments are passed?

If the proposed firearms dealer receives all the necessary licenses and approval from local, state, and federal authorities, and also receives all necessary permits and approvals from the City's

Department of Inspectional Services, it may be allowed to operate for a period of time. The dealer, however, will still be subject to the new zoning whenever it is passed and could have to cease operation if the use is no longer allowed at that location. In other words, a firearms dealer could potentially open after the notice of the public hearing but at its own risk of being subject to the later approved zoning amendments.

It is in the news that Salem recently rejected an application for a firearms dealer. Why can't Newton do the same?

The situation in Salem is very different than what Newton currently faces. The proposed firearms dealer in Salem was located in a residential zoning district where retail was not an allowed use and was replacing a nonconforming industrial use. Like Newton and most Massachusetts communities, Salem does not regulate firearms dealers through zoning and treats the use as retail. As a result, the applicant had to apply to the Salem Zoning Board of Appeals for a special permit to change from one nonconforming use (industrial) to another nonconforming use (retail) as neither uses are allowed in that particular residential district. Under its discretionary review, the Salem ZBA denied the request for a special permit. The Salem ZBA vote took place on April 21 and a decision, which may be appealed, has not yet issued.

In contrast, the proposed firearms dealer on Washington Street in Newton constitutes a by right retail use in a business zoning district. The dealer does not require any zoning relief from the City Council or the ZBA. Therefore, under current zoning, there is no opportunity nor basis for the City or the City Council to reject this business. However, under the proposed zoning ordinance, all firearms dealer uses will require a special permit from the City Council, which will allow the City Council to engage in the same discretionary review recently undertaken by Salem ZBA. The proposed ordinance also restricts firearms dealers to certain zoning districts. The proposed firearms dealer on Washington Street will be subject to these zoning changes if the proposed zoning ordinance is adopted.

LICENSING OF FIREARMS DEALERS

What local, state, and federal licenses are required to operate a firearms dealer?

To operate a business as a firearms dealer in MA, the dealer must seek and obtain a federal firearms license (FFL) to purchase firearms from the Bureau of Alcohol, Tobacco and Firearms (ATF) and a separate license to sell firearms from the Chief of Police, as the local licensing authority. The license to sell firearms is authorized by state law, M.G.L. c. 140 § 122, which lays out the criteria that the Chief must follow in reviewing applications for the license. The MA application for the license to sell firearms is also reviewed by the MA Firearms Records Bureau.

What is the local review process for the Newton Chief of Police to issue a firearms dealer license?

The Chief and designees will conduct a background check consisting of a review of reports from the Department of Mental Health, the Board of Probation, the MA Warrant Management System and the National Instant Criminal Background Check System. The applicant is fingerprinted by the Newton Police Department and the fingerprints are reviewed by the MA State Police. The Chief and designees will conduct a site view of the proposed location to ensure that the building is properly alarmed, secured, outfitted with appropriate locked storage containers, and that the windows are appropriately screened to prevent being able to see any firearms from outside of the store. There is no notification or hearing requirement for a license to sell firearms.

Can the Chief of Police deny an application for a license to sell firearms?

The Chief of Police may deny a license to sell firearms if the applicant is prohibited by law to hold the license.

What is the current licensing status of the proposed firearms dealer that is seeking to operate at a location on Washington Street in Newton?

The applicant has met all state and federal statutory requirements and the license is in the process of being issued.

Can the proposed firearms dealer operate at a different location?

A firearms dealer must list a specific address on the application for a license to sell firearms and the license must be exercised at that location. If the dealer would like to move the business to a different location, the dealer must notify the Chief of Police of the new location so that the Chief can conduct a site plan and security review prior to allowing the business to relocate. If the dealer wishes to operate a second location, the dealer must submit a new application for review and approval.

What operating restrictions apply to firearms dealers?

Firearms dealers license holders are held to a series of restrictions and requirements outlined in M.G.L. c. 140 § 123. Among the twenty-one conditions on the license are the following:

- Every item sold must be recorded in a log, which must be made open to inspection by the Chief of Police at any time
- Firearms may not be sold to a person who does not have MA issued License to Carry or a MA issued Federal Identification card
- Dealer is required to verify the license status of purchasers through the state licensing system, MIRCS (MA Instant Record Check System)
- Dealer must display a required placard from the MA Dept of Health about suicide prevention and a separate placard about the storage requirements for firearms in MA
- Dealer may not possess or sell any firearms that are illegal in MA

- Firearms that are stolen from the store must be reported immediately to the Chief of Police and to the MA Criminal Justice Information Services

In addition to the conditions on the license, in MA firearms dealers are also required to demonstrate how to safely load, unload and store handguns, how to operate the handgun's safety devices, and provide specific written safety warnings to purchasers of handguns.

A firearms dealer must perform a CORI background check on prospective employees.

Firearms dealers may not operate out of a residence or dwelling.

What is the oversight role of the Chief of Police?

Dealers are required to have their transaction records open for inspection at all times to the police. In addition, the license holder must provide the Chief with a yearly accounting of sales records.

What firearms may be sold in MA?

The Executive Office of Public Safety and Security (EOPSS) maintains a [list of approved firearms](#) that may be purchased from a duly licensed dealer in MA. The list is updated as needed and includes rosters for Olympic competition firearms, large capacity firearms, formal target shooting firearms and other approved firearms. Handguns must meet all consumer protection regulations including childproofing and protections against accidental discharges. 940 CMR 16.00

Can someone buy firearms online?

Yes, but they may not be delivered directly to the buyer. The firearms must, instead, be delivered to a federal firearms license (FFL) holder who must certify that the firearms are compliant with all applicable MA gun control laws prior to transferring the firearms to the buyer. The transfer of the firearms must take place at the FFL's place of business.

Are Firearms Dealers in MA allowed to sell assault weapons?

Since 1998, Massachusetts has had an assault weapons ban in place that prohibits the sale, transfer or possession of assault weapons, including some semi-automatic weapons. In 2016, the MA Attorney General issued a [Notice on Enforcement](#) which provides a description and list of banned firearms. Firearms dealers must comply with all requirements of the law and violations will result in a revocation of the license to sell firearms.

What safety and security measures are a firearms dealer required to take at its business place?

Dealers and gun owners are all required to secure their firearms either by keeping it in a locked container or by equipping the firearm with a tamper-proof locking mechanism that renders the firearm inoperable when the firearms are not under their control.

A firearms dealer is also prohibited from displaying firearms in the window of a store.

Who makes sure that a dealer has the proper security measures in place?

The Massachusetts Gun Control Advisory Board, along with the Executive Office of Public Safety and Security (EOPPS), provide guidance on appropriate safety and security measures to support and implement the gun control laws in MA. The Newton Chief of Police, as the local licensing authority, investigates and enforces the gun control laws to ensure that all required safety measures are in place for all license holders.

How often does the Chief of Police perform inspections of firearms dealerships?

The Chief of Police is required to perform annual inspections of a dealer's sales records but is permitted to conduct inspections at any time.

Can the City of Newton completely ban guns in Newton?

No. Under the current status of federal law, possession of firearms is protected by the Second Amendment and any effort on the part of the City of Newton to ban the possession of firearms would be struck down by a Court as unconstitutional.

What are some other resources on gun control in MA?

License to sell firearms: [M.G.L. c. 140 § 122](#)

License to sell ammunition – [M.G.L. c. 140 § 122B](#)

Conditions of Licenses – [M.G.L. c. 140 § 123](#)

Consumer Protection Regulations for the sale of handguns – [940 CMR 16.00](#)

Information on the MA Assault Weapons Ban – [MA FAQs about the Assault Weapons Ban](#)

CITY OF NEWTONIN CITY COUNCIL

ORDINANCE NO. B-78

June 2, 2021

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON AS FOLLOWS:

That the Revised Ordinances of Newton, Massachusetts, 2017, as amended, be and are hereby further amended with respect to **Chapter 30 ZONING** as follows:

1. **INSERT** after the last row "Microbusiness" in the "Restricted Uses" portion of the Table appearing in Sec. 4.4.1 the following new rows:

Business, Mixed Use & Manufacturing Districts	BU1	BU2	BU3	BU4	BU5	MU1	MU2	MU3	MU4	M	LM	Definition/ Listed Standard
Firearm Business	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4
Firing Range	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4
Gunsmith	--	SP	--	SP	--	--	--	--	--	SP	--	Sec. 6.10.4

2. **INSERT** after Sec. 6.10.3 REGISTERED MARIJUANA USE. a new Sec. 6.10.4. FIREARM BUSINESS USES as follows:

6.10.4. FIREARM BUSINESS USES

- A. **Purpose.** To establish criteria for the establishment of Firearm Business Uses in the City that address safety concerns in operations of such businesses and the potential disruption of peace and quiet enjoyment of the community. This Sec. 6.10.4 provides for separation between Firearm Business Uses and certain uses enumerated herein to maximize protection of public health, safety, and welfare.

B. Definitions.

Ammunition. Cartridges or cartridge cases, primers (igniter), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm.

Firearm. Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to a gun, pistol or rifle.

Firearm Accessory. Any device designed, modified or adapted to be inserted into or affixed onto any Firearm to enable, alter or improve the functioning or capabilities of the Firearm or to enable the wearing or carrying about one's person of a Firearm.

Firearm Business Use. Any of the following uses:

1. **Firearm Dealer.** A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
2. **Firing Range.** A commercial facility designed for Firearm(s) training and/or shooting practice.
3. **Gunsmith.** Any retail operation involving the repairing, altering cleaning, polishing, engraving, blueing or performing of any mechanical operation on any Firearm.

C. Firearm Business Uses not allowed as-of-right. Firearm Business Uses are not included within the definition of retail sales or services, manufacturing, or any other lawful business permitted as of right or by special permit as provided in this Chapter.

D. Firearm Business Uses allowed by special permit. Use of land, buildings or structures for a Firearm Business Use shall be allowed only by special permit in the districts specified in Sec. 4.4.1 subject to the requirements and criteria of this Sec. 6.10.4.

E. Minimum criteria and limitations on approval.

1. Firearm Business Uses shall not be located within a radius of 150 feet from any property containing a residential use.
2. Firearm Business Uses shall not be located within 1,000 feet of any private or public k-12 school.
3. Firearm Business Uses shall not be located within 1,000 feet of any daycare center, preschool, child-care facility, college or university, public park intended for passive or active recreation, playground, land or structures used for religious purposes,

library, nursing home, or an existing Firearm Dealer or Firing Range at another location, whether such firearm business use is located within or without the City's boundaries. All distances in this Section shall be measured in a straight line from any point on the building containing the proposed Firearm Business Use to the nearest property line of any of the designated uses set forth herein.

4. In appropriate circumstances, the City Council may grant a special permit for a Firearms Business Use even if the location of the proposed use does not comply with the buffer requirements set forth in Sec. 6.10.4.E.1-3 herein, but only upon a finding that the proposed location is sufficiently buffered by existing conditions such that the uses enumerated in paragraph Sec. 6.10.4.E.1-3 will not be adversely impacted by the Firearm Business Use.
5. Firearm Business Uses shall obtain and maintain all necessary Federal, State and other required local approvals and licenses prior to beginning operations.
6. Firearm Business Uses shall comply with all applicable Federal, State and local laws and regulations in the operation of their business.
7. A special permit granted by the City Council authorizing the establishment of a Firearm Business Use shall be valid only for the registered entity to which the special permit was issued, and only for the lot on which the Firearm Business Use has been authorized by the special permit.
8. No graphics, symbols or images of Firearms, Ammunition, or Firearm Accessories shall be displayed or clearly visible from the exterior of Firearm Business Uses. The City Council may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.
9. No Firearm Business Use shall be located within a building containing a residential use.
10. A Firearm Business Use shall be located indoors within a fully enclosed building.
11. The hours of operation for a Firearm Business Use shall not adversely impact nearby uses. The hours of operation shall be set by the City Council as a condition of the Special Permit, but in no case shall any Firearm Business Use be open before 10:00 a.m. or remain open after 7:00 p.m.
12. A special Permit for a Firearm Business Use shall not be granted if such business is owned by or to be managed by any person or persons convicted of violating the

provisions of G.L. c. 140, §§ 122B, 130, 131N, or similar laws in other states.

13. All Firearm Business Uses shall submit a security plan to the Newton Police Department for review and approval. The plan must include, but not be limited to, the following:

- a. Proposed provisions for security.
- b. The physical layout of the interior.
- c. After hours storage of all Firearms in locked containers or by otherwise securing the Firearms with tamper-resistant mechanical locks.
- d. The number of employees.

14. All Firearm Business Uses shall submit an operations and management plan to the Newton Police Department for review and approval.

15. All Firearm Business Uses shall conduct criminal background checks for all employees in accordance with state law.

16. No persons under the age of 18 shall have access into or within a Firearms Business Use, with the sole exception that minors age 14 and older may access a Firearms Dealer accompanied by the minor's parent or guardian.

17. Firearms Dealers shall videotape the point of sale of all firearms transactions and maintain videos for six months to deter illegal purchases and monitor employees.

F. **Special permit application and procedure.** The procedural and application requirements of Sec. 7.3 shall apply. In addition to the procedural and application requirements of Sec. 7.3, an application for special permit for a Firearm Business Use shall include, at a minimum, the following information:

1. **Description of Activities:** A narrative providing information about the type and scale of all activities that will take place on the proposed site.
2. **Lighting Analysis:** A lighting plan showing the location of proposed lights on the building and the lot and a photometric plan showing the lighting levels.
3. **Context Map:** A map depicting all properties and land uses within a minimum 1,000 foot radius of the proposed lot. The context map shall include the measured

distance to all uses described in Sec. 6.10.4.E.1-3 above.

4. **Description of Ownership, Management, and Employees:** The name and address of the legal owner of the establishment. The name and address of all persons having any legal, beneficial, equitable, or security interests in the establishment. In the event that a corporation, partnership, trust or other entity is listed, the name, and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name and address of the manager(s) and assistant manager(s).

5. **Comprehensive Signage Plan.**

- G. **Special Permit Criteria.** In granting a special permit for a Firearm Business Use, in addition to finding that the general criteria for issuance of a special permit are met, the City Council shall find that the following criteria are met:

1. **Criteria for all Firearm Business Uses:**

- a. The lot is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the lot.
- b. The establishment will have adequate and safe storage, security, and a lighting system.
- c. Loading, refuse and service areas are designed to be secure and shielded from abutting uses.
- d. The establishment is designed to minimize any adverse impacts on abutters or pedestrians.
- e. The location and operating characteristics of the proposed use promotes, and will not be detrimental to, the public health, safety and welfare of the neighborhood, which may extend into an adjacent municipality, or the City.
- f. The establishment has satisfied all of the conditions and requirements in this section.

2. **Additional Criteria for Firing Ranges:**

- a. The use will not result in adverse impacts due to noise, hazardous materials or air quality.

H. **Severability.** If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

Approved as to legal form and character:

Alissa O. Giuliani

ALISSA O. GIULIANI
City Solicitor

Under Suspension of Rules
Readings Waived and Approved by Voice Vote
23 Yeas 1 Nays (Councilor Gentile)

EXECUTIVE DEPARTMENT

Nadia Khan

(SGD) NADIA KHAN
Acting City Clerk

Approved:

Ruthanne Fuller

(SGD) RUTHANNE FULLER
Mayor

Date: 6/3/2021

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: Board Feedback on NUARI Vision Statement
Date: Tuesday, June 22, 2021 3:29:52 PM
Attachments: [Transmittal to Boards and Committees of Vision Statement 2.pdf](#)
[NUARI Vision Guiding Principles and Intentional Practices Adopted.pdf](#)

From: Katie King <kking@needhamma.gov>

Sent: Tuesday, June 22, 2021 2:51 PM

To: Daphne Collins <dcollins@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>; Chip Davis <CDavis@needhamma.gov>; Tatiana Swanson <tswanson@needhamma.gov>; Evelyn Poness <Eponess@needhamma.gov>; Sandy Cincotta <scincotta@needhamma.gov>; Latanya Steele <lsteale@needhamma.gov>; Elisa Litchman <elitchman@needhamma.gov>; Amy Haelsen <ahaelsen@needhamma.gov>; Stacey Mulroy <smulroy@needhamma.gov>; Jacob Cole <jcole@needhamma.gov>; Dave Davison <DDavison@needhamma.gov>; Greg Smith <gsmith@needhamma.gov>; Roger MacDonald <RMacDonald@needhamma.gov>; Rana Mana-Doerfer <rmana-doerfer@needhamma.gov>; Cecilia Simchak <csimchak@needhamma.gov>; Ann MacFate <AMacFate@needhamma.gov>; Sara Shine <sshine@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Deb Anderson <andersond@needhamma.gov>; Kathryn Copley <KCopley@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>; Chuck Murphy-Romboletti <cmurphy-romboletti@needhamma.gov>; Steven Popper <SPopper@needhamma.gov>; louise.fincom@gmail.com

Cc: Kate Fitzpatrick <KFitzpatrick@needhamma.gov>

Subject: Board Feedback on NUARI Vision Statement

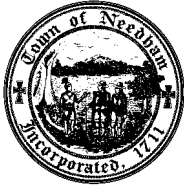
Hi Board and Committee liaisons,

In April, the Select Board asked other Town Boards, Committees, and Commissions to consider adopting the vision statement for racial equity in Needham created by the Needham Unite Against Racism Initiative (NUARI) Working Group. (see attached)

Could you please let me know if your Board/Committee has voted to adopt the vision statement? And if there was any additional feedback from those discussions to share back with NUARI and the Select Board?

This will help inform the Town's future conversations and actions. If you're interested, we have a running list of Town and non-governmental organizations that have endorsed the vision statement, [linked from the NUARI webpage here](#).

Thanks,
Katie



Office of the
SELECT BOARD

TOWN OF NEEDHAM

TOWN HALL
Needham, MA 02492-2669

TEL: (781) 455-7500

FAX: (781) 449-4569

TO: Boards, Committees, Commissions
FROM: Select Board
CC: Kate Fitzpatrick Town Manager, Katie King, Assistant Town
Manager/Director of Operations, David Davison, Assistant Town
Manger/Director of Finance, Department and Division Managers
DATE: April 1, 2021
RE: A Racial Equity Statement for the Town of Needham

In July 2020, the Select Board began the Needham Unite Against Racism Initiative to foster a dialogue about racism in Needham, and to produce actionable strategies to ensure that Needham is a welcoming and inclusive community.

During the past six months, the NUARI Working Group has developed a Racial Equity Statement for the Town of Needham, along with Guiding Principles and a set of Intentional Practices to help Needham realize the vision for racial equity.

The Select Board has voted to adopt these recommendations and will seek approval of NUARI's work in a non-binding resolution at Town Meeting this Spring.

The Select Board asks that your Board, Committee or Commission consider adopting the vision and principles, and integrating these concepts in your work plans, programs, and goals. We are interested in your perspectives and input going forward and would appreciate your letting us know what approaches and actions you plan to take.

The Select Board expects to host periodic summits to assess progress in this work and asks for the help of all the Town's elected and appointed policy makers. It is important that we work together to identify barriers to racial equity, and solutions, opportunities, and resources, to overcome them.

The support of all Boards, Committees, and Commissions, and that of the broader community, is required to assure that the Town of Needham is a welcoming and inclusive place.

NUARI Vision Statement, Guiding Principles, and Intentional Practices
Created & Approved by the NUARI Working Group, March 22, 2021
Adopted by the Needham Select Board, March 23, 2021

A RACIAL EQUITY STATEMENT FOR THE TOWN OF NEEDHAM...

Needham will be a community free of racism, racial bias, prejudice and discrimination. Our residents, schools, businesses, organizations and government will work together to identify barriers to racial equity and create solutions, opportunities, resources and support for removing them.

- We will work collaboratively and democratically toward a just, equitable, antiracist community.
- We will work to identify and change current policies, procedures, practices, and cultural norms in Needham that prevent meaningful access to opportunities because of race.
- We will create opportunities for the community to confront unpleasant truths and seek solutions that always amplify values of racial equity.
- We will intentionally create spaces for respectful dialogue and difficult conversations toward racial amity.
- We will actively engage with those who feel the impact of racism most directly, seeking their input, guidance, and honoring the wisdom of their experience.
- We will commit as individuals to be intentional in our efforts to learn and practice anti-bias and antiracism, transforming our thinking, attitudes and behaviors.

NUARI Vision Statement, Guiding Principles, and Intentional Practices
Created & Approved by the NUARI Working Group, March 22, 2021
Adopted by the Needham Select Board, March 23, 2021

GUIDING PRINCIPLES...

1. Racial equity in Needham means that the experiences of people of color are the same as those of the white majority – from day to day interactions, housing opportunities, interactions with the police and other first responders, employment, and educational opportunities, etc. On the path to racial equity...
 - a. People of color will see others of color in leadership roles in government, business, the school system, and civic groups.
 - b. Our community will have opportunities to learn a more complete version of American history and its relevance to today's challenges.
 - c. Students in schools will experience equity with regard to all aspects of their education (e.g. placement, acknowledgement, recognition, engagement, discipline, curriculum and co-curricular involvement).
 - d. People of color will feel safe, validated and treated equitably with respect to public safety (e.g. arrests, use of force, motor vehicle stops, traffic infractions, handcuffing, and criminal applications).
 - e. People of color will feel safe, validated, included and treated equitably in all Town-related activities (e.g. town meeting/government, services and events).
 - f. In the decision making process, the voices and experiences of people of color will be honored and respected as valid (e.g. equity in hiring, engagement and promotion, programs and events are inclusive and equity minded, intentional anti-bias efforts are employed in all considerations).
 - g. All races will want to live here – Needham will be a desirable community for everyone. The town will take proactive measures to support a more racially and economically diverse and inclusive population (e.g. housing access, mixed income and diversity of housing stock).
2. A healthy and equitable community recognizes the harm created by implicit bias, intolerance and racism and strives to embrace diversity and inclusion by using a racial equity lens to promote anti-racist behaviors and attitudes in all aspects of civic and inter-personal living.
3. We value lifelong/ongoing self and group learning and critical social analysis to acknowledge and to further understand the dominance of white culture and privilege throughout US history, and the importance of disrupting racial structures that perpetuate it.
4. Becoming anti-racist means that we must tackle our own implicit bias, intolerance and discriminatory lenses - thus, bringing about restorative justice, healing and reconciliation to truly bring together the community we live in.
5. All members of the community commit to engaging with good will and respect in order to repair and build healthy relationships.

NUARI Vision Statement, Guiding Principles, and Intentional Practices
Created & Approved by the NUARI Working Group, March 22, 2021
Adopted by the Needham Select Board, March 23, 2021

**SUPPORTING THE FOLLOWING INTENTIONAL PRACTICES WILL
HELP NEEDHAM REALIZE THE VISION FOR RACIAL EQUITY...**

- Seek to increase interactions and create/cultivate friendships across and among the various groups
- Commit to self-education to have a better understanding of and be more informed about race, racism, racial equity, race amity, and race relations.
- Foster safe environments for, and listen to residents who are, directly affected by racism and racial inequities.
- Engage in meaningful and productive conversations on racial issues with town/community members.
- Support those services, materials, expertise, scholarships, and organizations that advocate for racial equity.
- Stand up, speak out, and act against racism and racial injustice.
- Encourage vision, transformation and advocacy anchored in democratic action.
- Encourage and build public understanding of the need to eliminate racial injustice.

This draft Agenda is for the PB Use Only

NEEDHAM

ZONING BOARD OF APPEALS

AGENDA

MONDAY, July 15, 2021 - 7:30PM

Zoom Meeting ID Number: 869-6475-7241

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 Meeting ID: 869-6475-7241
Or joint the meeting at link: <https://us02web.zoom.us/j/86964757241>

AGENDA

Minutes	Review and approve Minutes from June 17, 2021 meeting.
Case #1 – 7:30PM	78 Jayne Road – Noreen Capraro, applicant, has made application to the Board of Appeals for a Special Permit under Sections 1.4.6, 7.5.2 and any other applicable Sections of the By-Law to allow the change, extension, alteration, and enlargement to a lawful, pre-existing, non-conforming building associated with the enlargement with an attached single car garage and a second story addition to an existing single-family residence. The property is located at 78 Jayne Road, Needham, MA in the Single Residence B (SRB) District.
Case #2 – 7:45 PM	920 South Street – Joseph Audette, MA, MD and Allison Bailey, MD, applicants, have made application to the Board of Appeals for a Special Permit under Sections 3.2.1, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Sections of the By-Law to allow the waiving of strict adherence with the off-street parking requirements, parking plan and design associated with the renovation and repurpose of an existing three-story building for use as a professional educational center by the Source Point Foundation. The property is located at 920 South Street, Needham, MA in the Rural Residence Conservation (RRC) District.
Informal Matter	Consideration to adopt the vision statement for racial equity in Needham created by the Needham Unite Against Racism Initiative (NUARI) Working Group.

Next Meeting: Thursday, August 19, 2021, 7:30pm

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 Chestnut Street
Needham, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520

FAX (781) 465-6059

June 21, 2021

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Administrative Specialist

Re: Joseph Audette and Allison Bailey
920 South Street, Needham, MA
Special Permit Request

Dear Mrs. Collins,

Please be advised that I represent Joseph Audette, MA, MD and Allison Bailey, MD (hereinafter, jointly, the “Applicants”) relative to the property at 920 South Street, Needham, MA (the “Premises”). In connection therewith, submitted herewith, please find the following:

1. A Completed Application for Hearing
2. One copy of architectural plans titled “920 South Street, Special Permit Set, 06/18/2021”, dated June 18, 2021, prepared by Derek Rubinoff Architect, consisting of 22 pages;
3. One copy of “Plan of Land, 920 South Street, Needham, Massachusetts (Norfolk Registry of Deeds), dated June 8, 2021, prepared by Greater Boston Surveying and Engineering, consisting of 1 page; and
5. Check no. 1080 in the amount of \$500 for the applicable filing fee.

The Premises is identified as Parcel 70 on Town of Needham Assessor’s Map No. 205 and is located in the Rural Residence Conservation (RRC) Zoning District. It contains approximately 5.86 acres of land with approximately 177.65 feet of frontage on South Street and is occupied by an existing three-story structure, used for many years for hospice purposes as the “Tippet House”. As a result, while the structure retains certain residential aspects, it also includes many commercial elements, as required in connection with the use and applicable code provisions.

The Applicants would like to renovate and repurpose the existing structure for use as a professional educational center by the Source Point Foundation (the “Foundation”), a not-for-profit educational entity, to be run by the Applicants, whose mission is to counter burnout in healthcare workers, first responders and in the community, through transformative educational

experiences with an emphasis on wellness and self-care. The proposed renovations are limited to interior changes and only minor exterior alterations. No expansion of the structure, no additional floor space and no additional buildings or structures are proposed. There are currently approximately 15 parking spaces on site, as depicted on the site plan, and other than re-striping these existing spaces, no alteration to the parking or any new parking is proposed.

The Applicants assert that the proposed re-use of the property qualifies as an educational purpose pursuant to the “Dover Amendment”, as set forth in Section 3 of M.G.L. Chapter 40A. As such, the use itself should not require any form of zoning relief. However, same has been included in the application, as a strictly precautionary, conservative measure. However, because the proposed reuse differs from the prior use, a review of off-street parking is required, with either a waiver, as provided in the By-Law, or a finding that such waiver is not required because it would prohibit an otherwise protected use of the Premises.

It is anticipated that ongoing educational experiences will be offered on site, approximately three to four days per week, in sessions lasting between three to four hours, on average. In addition, virtual seminars are expected to be offered for remote students, once or twice each month. Continuing Education Credits will be issued for qualifying sessions. While many sessions are expected to occur during the day, there will also be evening sessions on occasion. The number of students on site at any given time is expected to fluctuate, with a maximum of ten students. In addition, the Foundation anticipates running larger conferences approximately two to four times per year, with all participants staying at a designated off-site location, with shuttle service provided. As a result, at any given time, it is anticipated that no more than 10 parking spaces will be required, in practice, in connection with the proposed re-use of the property.

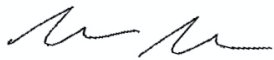
In addition, the Applicants intend to live at the property, in the third-floor space, with their daughter. Therefore, a minimum of two additional parking spaces will also be necessary in practice. As a result, the total practical parking demand is expected to be 12 parking spaces.¹ Whereas there are 15 existing spaces, the Applicants assert that the number of parking spaces is sufficient to satisfy demand. Moreover, the apparent closest category in Section 5.1.2 of the By-Law, “Colleges, vocational and high schools excluding boarding and office facilities which shall be computed separately in accordance with this section” requires that parking equal to “one half of the design or expected enrollment” be provided. In this situation, that would result in a parking demand of 7, calculated as follows: Maximum expected enrollment of $10 \div 2 = 5$ spaces + 2 spaces for residence = 7 total spaces. However, in as much as the existing parking does not strictly comply with each and every design requirement of Section 5.1.3, a waiver still appears to be required.

Please schedule this matter for the next available hearing of the Board, whether in person, via Zoom or other electronic format. In the meantime, if you have any questions, comments or concerns relative to the foregoing, please do not hesitate to contact me so that I may be of assistance. Please also note that I have spoken with the Building Commissioner relative to the proposed renovation and re-use of the Premises.

¹ This approach, namely, one space for each student plus one space for each adult resident, is consistent with input recently received from Building Commissioner Roche.

Your courtesy and attention are appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Giunta", with a stylized flourish at the end.

George Giunta, Jr.



**TOWN OF NEEDHAM
MASSACHUSETTS
BOARD OF APPEALS**

2021 JUN 21 PM 4:31

APPLICATION FOR HEARING

IT IS STRONGLY RECOMMENDED THAT APPLICANTS CONSULT WITH THE BUILDING INSPECTOR PRIOR TO FILING THIS APPLICATION.

Note: Application must be complete, with certified plot plan attached, and application fee included, or application will not be accepted.

Date: June 21, 2021

Name of Applicant or Appellant Joseph Audette, MA, MD and Allison Bailey, MD

Address: 110 Pemberton Street, Unit 10, Cambridge, MA 02140

(Optional) E-mail address: jfaudette988@gmail.com

Daytime telephone: 617-319-2454

(Optional) Cell phone: _____

(Optional) additional contact information, (ie: ☐ contractor ☐ architect, ☐ builder or ☒ attorney):

George Giunta, Jr., Esq. – 281 Chestnut Street, Needham, MA 02492

781-449-4520

Address/Location of Property 920 South Street, Needham, MA

Assessor Map / Parcel Number Map 205, Parcel 70

Zone for property: Rural Residence Conservation (RRC)

Is property within 100 feet of wetlands, 200 ft. of stream or in flood plain? ☒ Yes ☐ No

Applicant is ☐ owner, ☐ tenant, ☐ prospective tenant, ☐ licensee ☒ prospective purchaser

Type of Permit requested: ☐ residential or ☒ commercial

If residential renovation, will renovation constitute "new construction"? ☐ yes ☒ no

If commercial, please consult with building inspector regarding parking issues

Select one: ☒ Special Permit ☐ Variance ☐ Comprehensive Permit, M.G. L Ch. 40B

☐ Amendment ☐ Appeal Building Inspector Decision*

*(For an appeal from decision of Building Inspector, attach copy of the decision or other written notice received from the Building Inspector.)

Statement of relief sought:

1. Special Permit pursuant to Section 5.1.1.5 of the Zoning By-Law waiving strict adherence with the off-street parking requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements);
2. Only to the extent strictly necessary and required, Special Permit pursuant to Section 3.2.1 of the By-Law for Private School;
3. All other relief that is or may be necessary and proper to permit the renovation and re-use of the Premises as a not-for-profit professional educational center.

Applicable Section (s) of Zoning By-Law 3.2.1, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable Section or By-Law

If application under Zoning Section 1.4, listed immediately above
List nonconformities related to lot/structure(s) in application:

Date structure(s) on lot constructed (including any additions):

House Built - 1908 (Assessor's)

Date lot created:

1987

Additional information may be requested by the Board at any time during the application or hearing process.

A hearing before the Board of Appeals, with reference to the above noted application or appeal, is requested by

Joseph Audette, MA, MD, and Allison Bailey, MD
By their attorney,



Signed _____

George Giunta, Jr., Esq.
281 Chestnut Street
Needham, MA 02492
Tel: 781-449-4520
Email: george.giuntajr@needhamlaw.net



EXISTING FRONT VIEW



EXISTING AERIAL VIEW

PROJECT DIRECTORY

OWNER:
Joseph Audette
438 Main Street
Yarmouth Port, MA 02675
Contact: **Joseph Audette**
Email: jaudette98@gmail.com
Phone: (617)-319-2434

ARCHITECT:
Derek Rubino, Architect
82 Spring Street
West Roxbury, MA 02132-4316
Contact: **Anat Beck-Nachtigal**
Senior Project Manager
Email: anat@derekrubino.com
Phone: (617) 777-2183

SURVEY & CIVIL
Greater Boston Survey and Engineering
19 Fredith Road
Weymouth MA 02189
Contact: **Paul J. Tyrell**
Email: p.j.tyrell@att.net
Phone: 781-413-7029

920 South Street

Special Permit Set
06/18/2021

920 South St
Needham, MA 02492

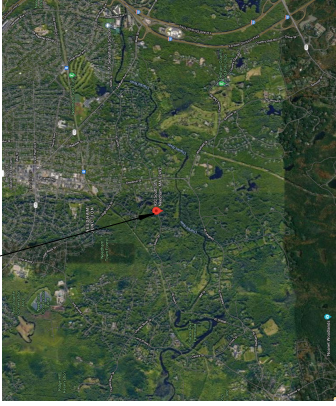
Scope:

Change use from hospice to professional educational center with an owner-occupied residence on the third floor. The scope of work is limited to adjusting a small number of partitions on the first and second floors to accommodate teaching areas. Repurpose the third floor as a residential suite. Changes to the exterior are limited to a few adjustments to rear windows and doors.

LOCATION MAP



LOCUS



Sheet List			
Sheet Number	Sheet Name	Current Revision	Current Revision Date
A-0.0	Cover		
A-0.1	Site Overview		
A-0.2	Existing Exterior Photos		
A-0.3	Existing Interior Photos		
A-0.4	Existing Interior Photos		
A-1.1	Demolition Basement Plan		
A-1.2	Demolition First Floor Plan		
A-1.3	Demolition Second Floor Plan		
A-1.4	Demolition Third Floor Plan		
A-1.5	Demolition Roof Plan		
A-1.6	Demolition Front Elevation		
A-1.7	Demolition Rear Elevation		
A-1.8	Demolition Left & Right Elevations		
A-2.1	Proposed Basement Plan		
A-2.2	Proposed First Floor Plan		
A-2.3	Proposed Second Floor Plan		
A-2.4	Proposed Third Floor Plan (Residential Suite)		
A-2.5	Proposed Roof Plan		
A-2.6	Proposed Front Elevation		
A-2.7	Proposed Rear Elevation		
A-2.8	Proposed Left & Right Elevation		
A-3.0	Gross Floor Areas		



[Signature]

DEREK RUBINOFF ARCHITECT
82 Spring Street West Roxbury, MA 02132-4316 617-504-2599
inquiries@derek-rubino.com

Cover
920 South Street
920 South St
Needham, MA 02492

A-0.0

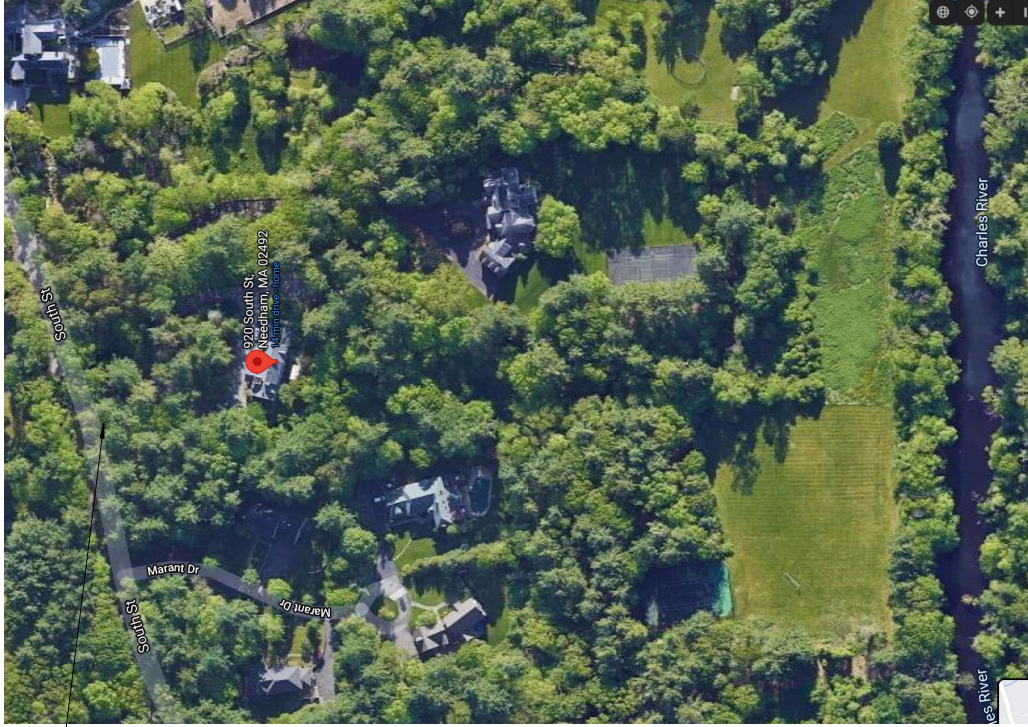
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JOB # 2183
SCALE 1/4" = 1'-0"
DATE 06/18/2021
BY JA
CROSS REF:

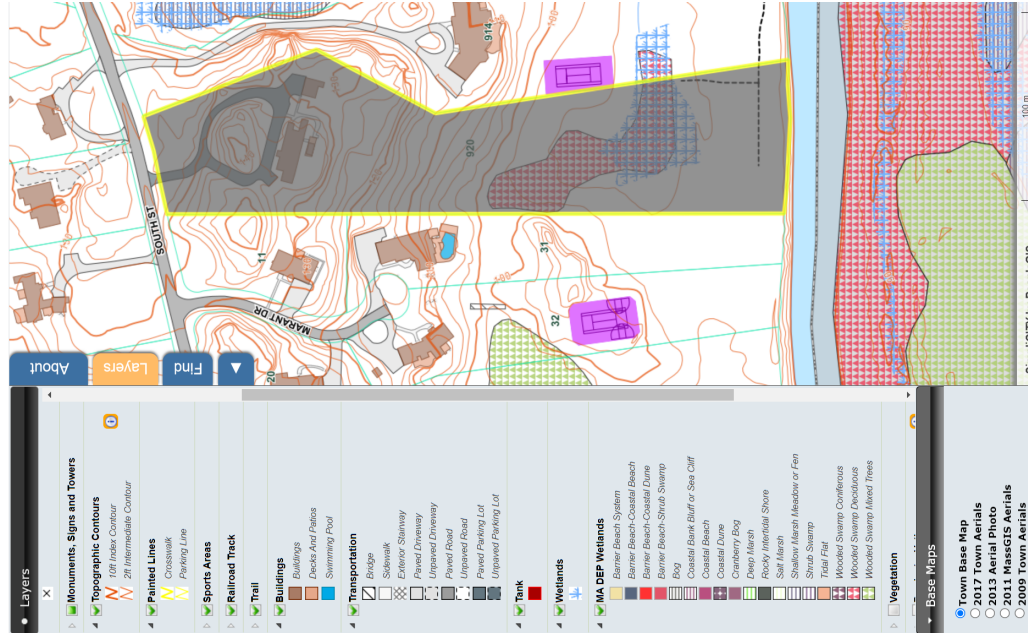
STREET VIEW



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SATELLITE PHOTO



GIS VIEW

DEREK RUBINOFF ARCHITECT
82 Spring Street West Roxbury, MA 02132-4316 617-504-2399
inquiries@derek-rubinoff.com

Site Overview
920 South Street
Needham, MA 02492

A-0.1

JOB # 2133
SCALE:
DATE: 06/19/2021
CROSS REF: A1002



EXISTING AERIAL VIEW



EXISTING FRONT VIEW



EXISTING SIDE VIEW



EXISTING REAR YARD



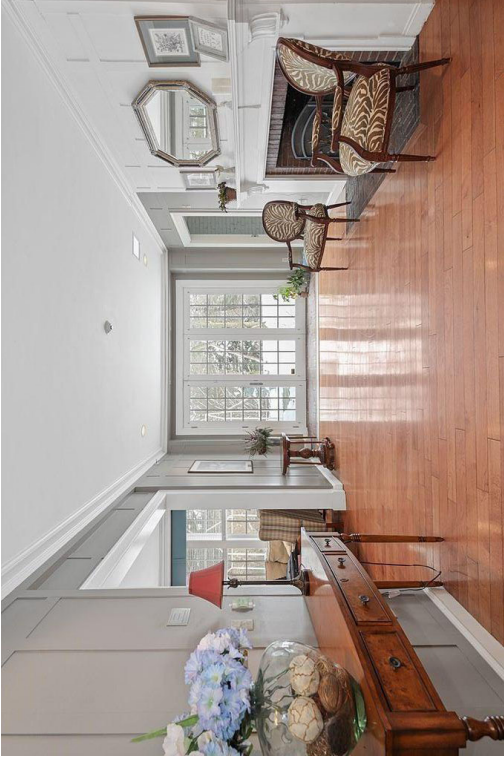
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DEREK RUBINOFF ARCHITECT
82 Spring Street West
Roxbury, MA 02132-4316
617-504-2379
inquiries@derek-rubino.com

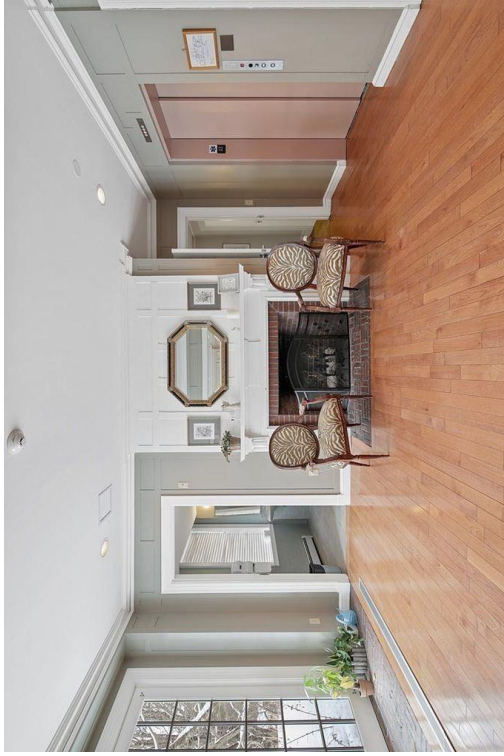
Existing Exterior Photos
920 South Street
Needham, MA 02492

A-0.2

JOB #	2133
SCALE	
DATE	06/19/2021
DRAWN BY	JA
CROSS REF.	



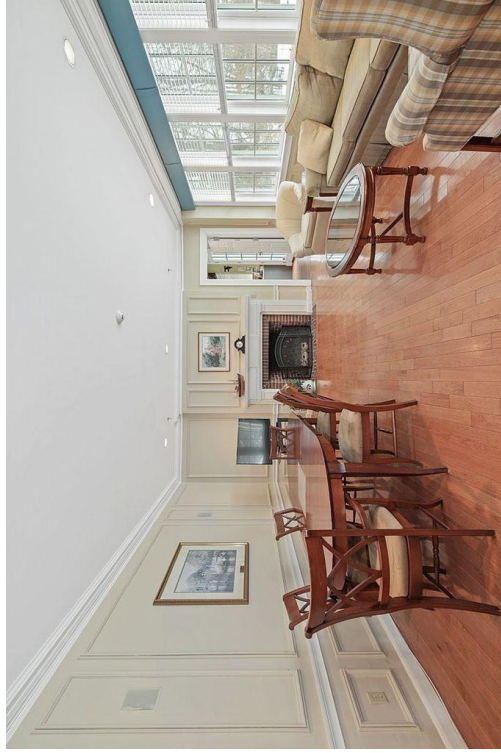
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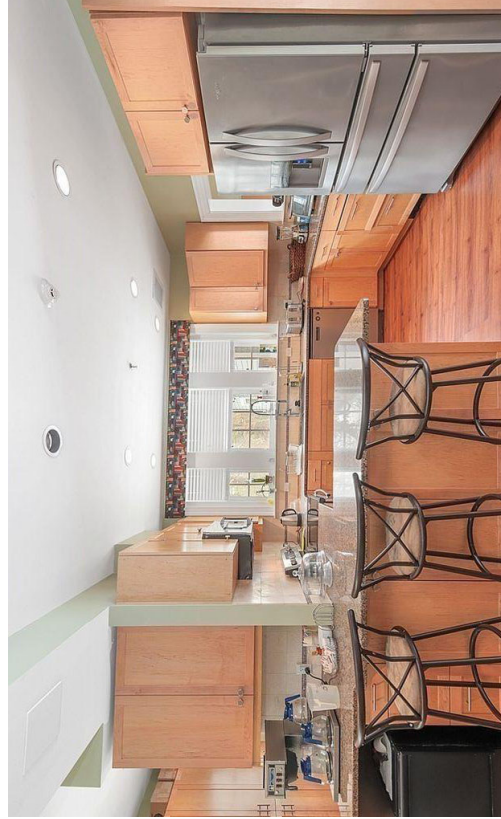
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D. Rubino



EXISTING LIVING/DINING ROOM



EXISTING FIRST FLOOR KITCHEN

DEREK RUBINOFF ARCHITECT
82 Spring Street West
Roxbury, MA 02132-4316
617-504-2399
inquiries@derek-rubino.com

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Existing Interior Photos
920 South Street
Needham, MA 02492

JOB #	2133
SCALE	
DATE	06/19/2021
BY	JA
CROSS REF.	

A-0.3



EXISTING SECOND FLOOR CORRIDOR



EXISTING OFFICE ON THIRD FLOOR



EXISTING LAUNDRY IN BASEMENT

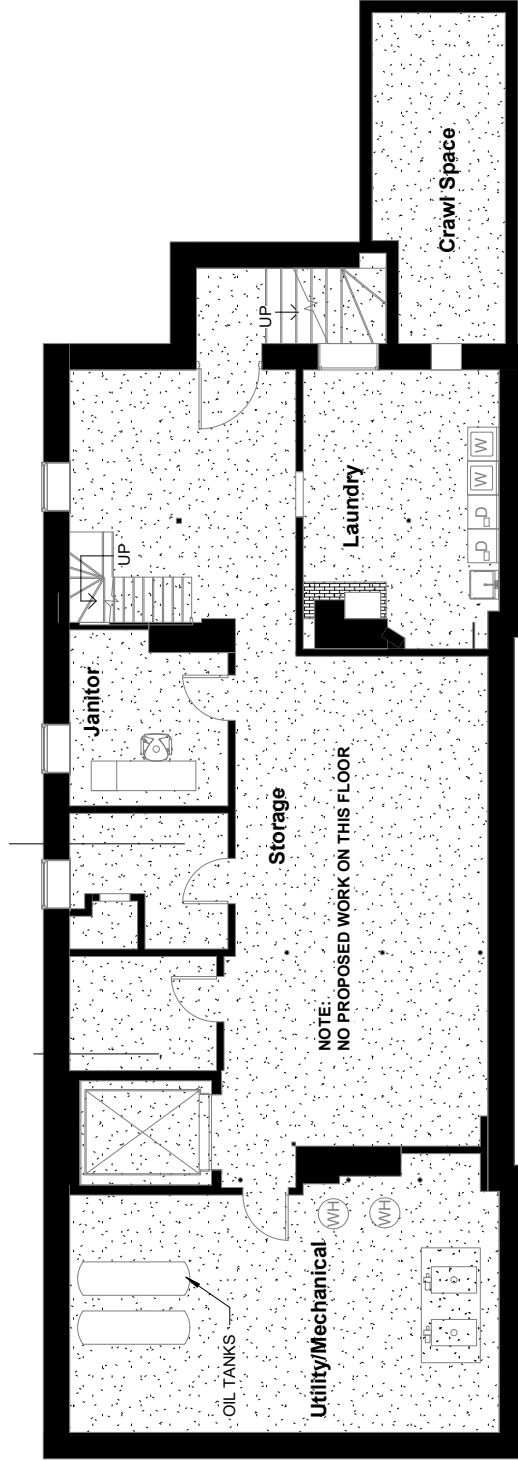


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DEREK RUBINOFF ARCHITECT		Existing Interior Photos		A-0.4	
82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubino.com		920 South Street 920 South St Needham, MA 02492		JOB # 2133	
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				DATE: 06/19/2021	
				DRAWN BY: AMDC	
				CROSS REF:	

FRONT DRIVE (ABOVE)

Elevator Machine Room Electrical Room



REAR YARD (ABOVE)

1 Demolition Basement
1/8" = 1'-0"



PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

DEREK RUBINOFF ARCHITECT 82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubinoff.com	
Demolition Basement Plan 920 South Street Needham, MA 02492	Job # 2133 Scale: As Indicated Date: 06/19/2021 Cross Ref: JA
A-1.1	

- 1 TYPICAL: DEMOLISH EXISTING WALLS AND DOORS ONLY WHERE INDICATED.
- 2 DEMOLISH EXISTING WINDOWS & CUT SILLS ONLY WHERE INDICATED.
- 3 REMOVE EXISTING FURNITURE, SINKS AND COUNTER TOP.
- 4 REMOVE EXISTING SHOWER BASE AND SHOWER.
- 5 CREATE OPENING IN EXISTING WALL.



A-1.6
1

A-1.8

1
A-1.7

1 Demolition First Floor
1/8" = 1'-0"

PLAN LEGEND	EXISTING	DEMOLITION	NEW
			

920 South Street
920 South St
Needham, MA 02492

82 Spring Street, West Roxbury, MA 02132-4316 617-504-2599 inquiries@derekrubinoff.com

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A-1.2

DEMOLITION PLAN KEY NOTES

- 1 TYPICAL: DEMOLISH EXISTING WALLS AND DOORS ONLY WHERE INDICATED.
- 2 DEMOLISH EXISTING WINDOWS & CUT SILLS ONLY WHERE INDICATED.
- 3 REMOVE EXISTING FURNITURE, SINKS AND COUNTER TOP.
- 4 REMOVE EXISTING SHOWER BASE AND SHOWER.
- 5 CREATE OPENING IN EXISTING WALL.



[Signature]

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

DEREK RUBINOFF ARCHITECT

82 Spring Street West
Roxbury, MA 02112-4316
617-504-2399
inquiries@derek-rubino.com

Demolition Second Floor Plan

920 South Street
Needham, MA 02492

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A-1.3

JOB #	2133
SCALE	As Indicated
DATE	06/18/2021
BY	JA
CROSS REF.	

DEMOLITION PLAN KEY NOTES

1

TYPICAL: DEMOLISH EXISTING WALLS AND DOORS ONLY WHERE INDICATED.

2

DEMOLISH EXISTING WINDOWS & CUT SILLS ONLY WHERE INDICATED.

3

REMOVE EXISTING FURNITURE, SINKS AND COUNTER TOP.

4

REMOVE EXISTING SHOWER BASE AND SHOWER.

5

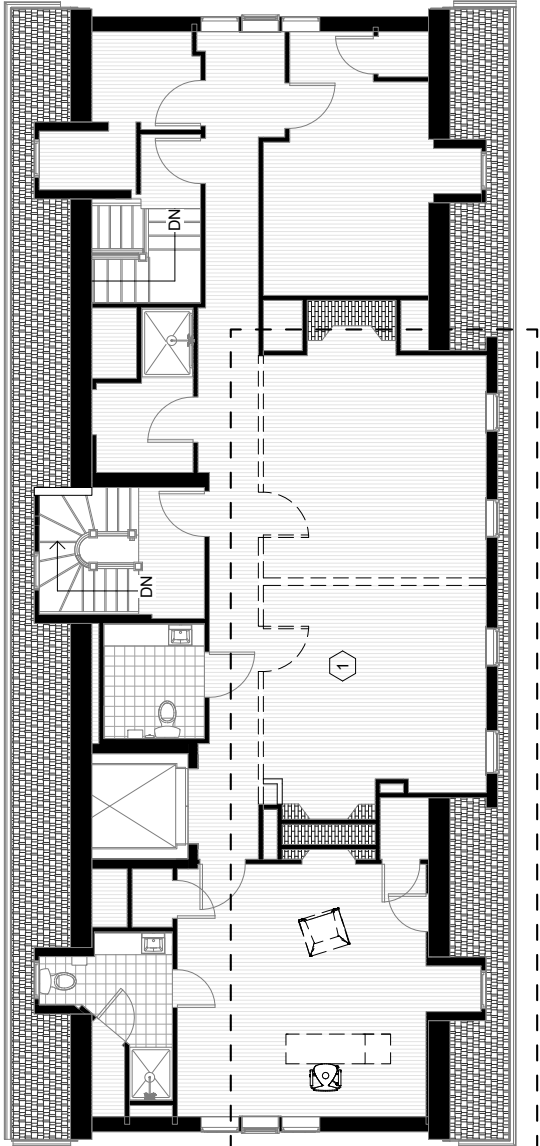
CREATE OPENING IN EXISTING WALL.



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A-1.6
1

FRONT DRIVE (BELOW)



A-1.8
1

AREA OF WORK

2 A-1.8

1
A-1.7

1 Demolition Third Floor
1/8" = 1'-0"

REAR YARD (BELOW)

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION



DEREK RUBINOFF ARCHITECT

82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubino.com

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Demolition Third Floor Plan

920 South Street
920 South St
Needham, MA 02492

JOB # 2133
SCALE: As Indicated
DATE: 06/19/2021
DRAWN BY: JA
CROSS REF:

A-1.4

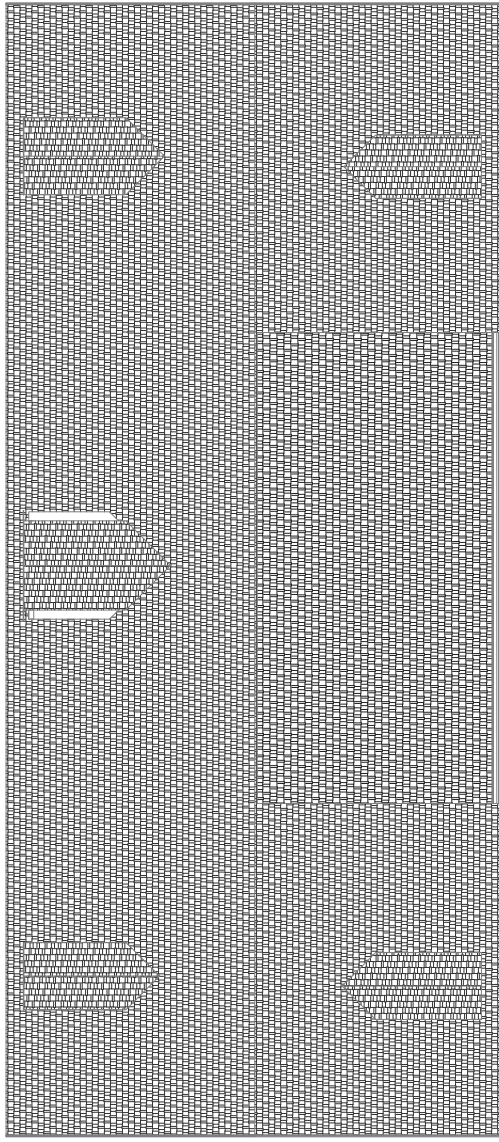


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FRONT DRIVE (BELOW)



NOTE:
NO PROPOSED WORK ON THIS FLOOR



① Demolition Roof
1/8" = 1'-0"

REAR YARD (BELOW)



PLAN LEGEND		
	EXISTING PARTITION	
	DEMOLISH PARTITION	
	NEW PARTITION	



DEREK RUBINOFF ARCHITECT
82 Spring Street West
Roxbury, MA 02112-4316 617-504-2399
inquiries@derek-rubino.com

Demolition Roof Plan
920 South Street
Needham, MA 02492

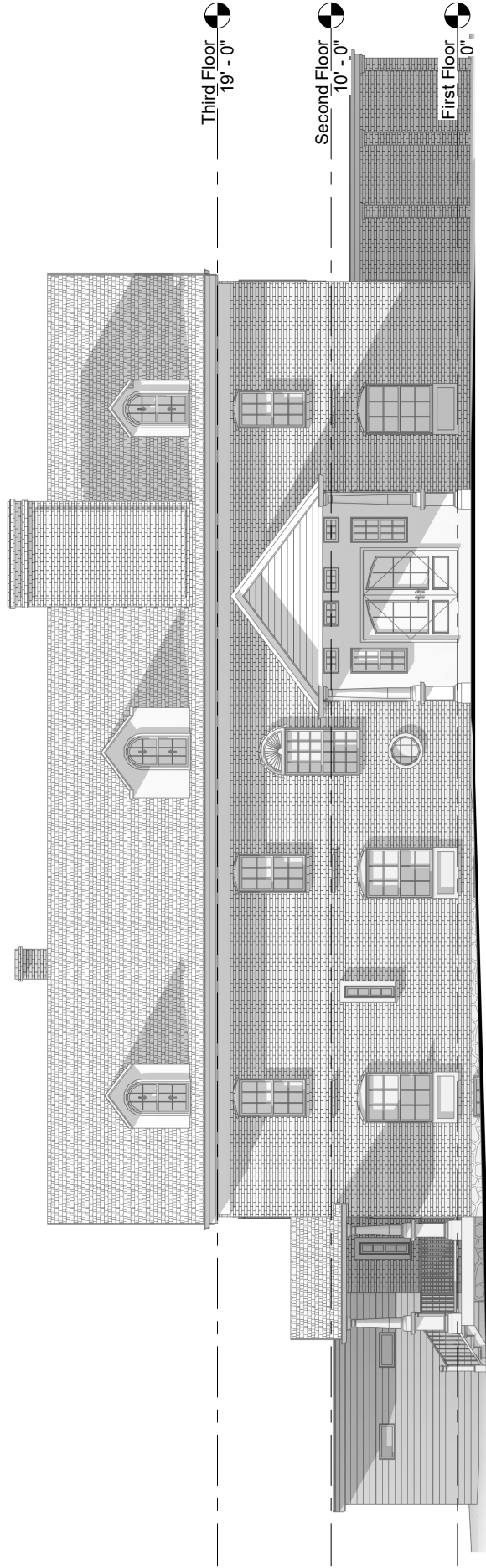
A-1.5

JOB #	2133
SCALE	As Indicated
DATE	06/18/2021
DRAWN BY	JA
CROSS REF.	



[Handwritten Signature]

NOTE:
NO PROPOSED WORK ON THIS ELEVATION



① Demolition Front Elevation
1/8" = 1'-0"

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

DEREK RUBINOFF ARCHITECT
82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubino.com

Demolition Front Elevation
920 South Street
Needham, MA 02492

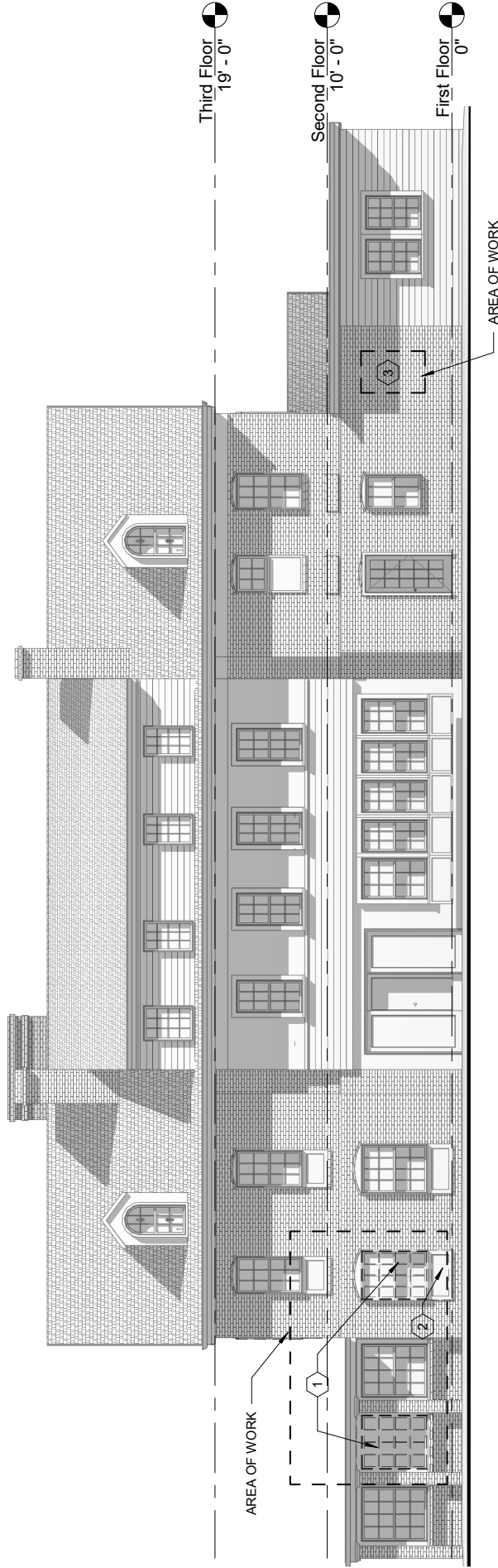
JOB #	2133
SCALE	As Indicated
DATE	06/18/2021
DRAWN BY	JA
CROSS REF.	

A-1.6

DEMOLITION ELEVATION KEY NOTES	
1	DEMOLISH EXISTING WINDOWS AS INDICATED.
2	DEMOLISH EXISTING PANEL.
3	CREATE OPENING.



D. Rubino



PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

1 Demolition Rear Elevation
1/8" = 1'-0"

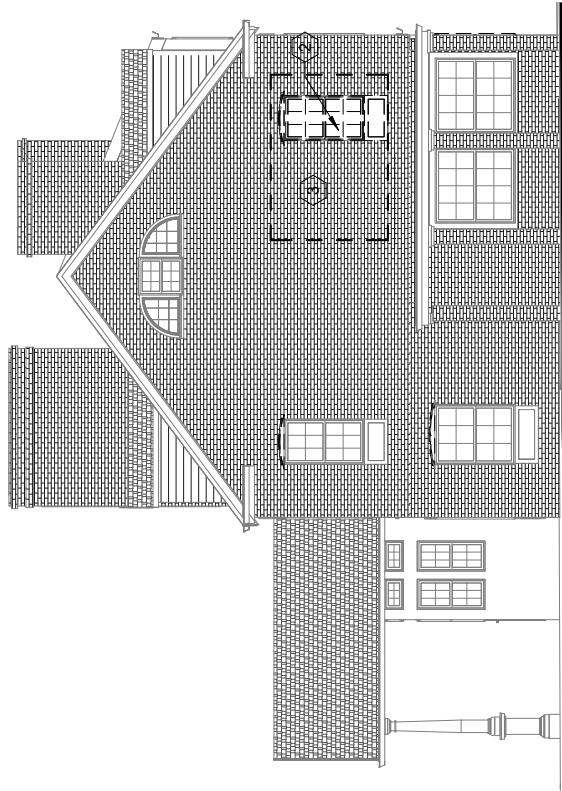
DEREK RUBINOFF ARCHITECT
 82 Spring Street West
 West Roxbury, MA 02132-4316
 617-504-2399
inquiries@derek-rubino.com

Demolition Rear Elevation
 920 South Street
 920 South St
 Needham, MA 02492

JOB # 2133
 SCALE: As Indicated
 DATE: 06/18/2021
 CROSS REF: JA

A-1.7

DEMOLITION ELEVATION KEY NOTES	
1	DEMOLISH EXISTING WINDOWS AS INDICATED.
2	DEMOLISH EXISTING PANEL.
3	CREATE OPENING.



1 Demolition Right Elevation
1/8" = 1'-0"

NOTE:
NO PROPOSED WORK ON THIS ELEVATION



2 Demolition Left Elevation
1/8" = 1'-0"

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION



D. Rubino

DEREK RUBINOFF ARCHITECT
 82 Spring Street West
 Roxbury, MA 02112-4316
 617-504-2399
inquiries@derek-rubino.com

Demolition Left & Right Elevations
 920 South Street
 920 South St
 Needham, MA 02492

A-1.8

OR.# 2133 SCALE: As Indicated DATE: 06/18/2021 BY: JA CROSS REF:
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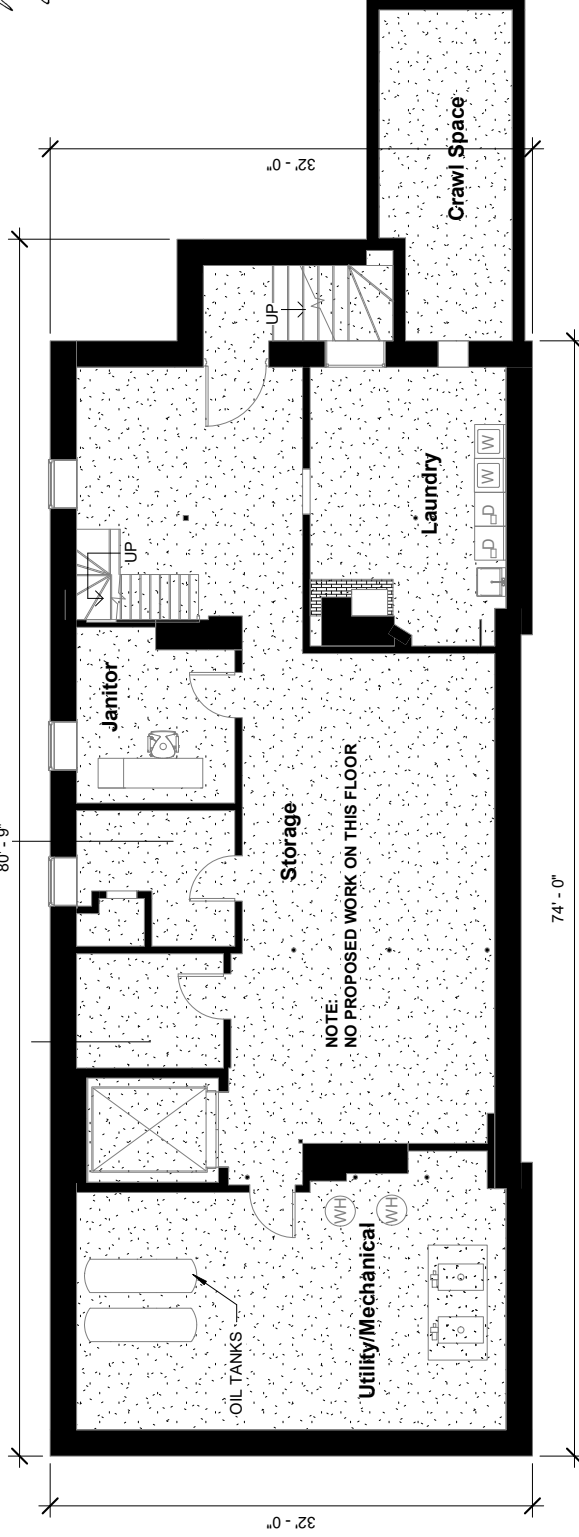


D. Rubino

FRONT DRIVE (ABOVE)

Elevator Machine Room
Electrical Room

80' - 9"



1 Proposed Basement
1/8" = 1'-0"

REAR YARD (ABOVE)

PLAN LEGEND		
	EXISTING PARTITION	
	DEMOLISH PARTITION	
	NEW PARTITION	



DEREK RUBINOFF ARCHITECT
82 Spring Street West
Roxbury, MA 02112-4316 617-504-2399 inquiries@derek-rubino.com

Proposed Basement Plan
920 South Street
Needham, MA 02492

A-2.1

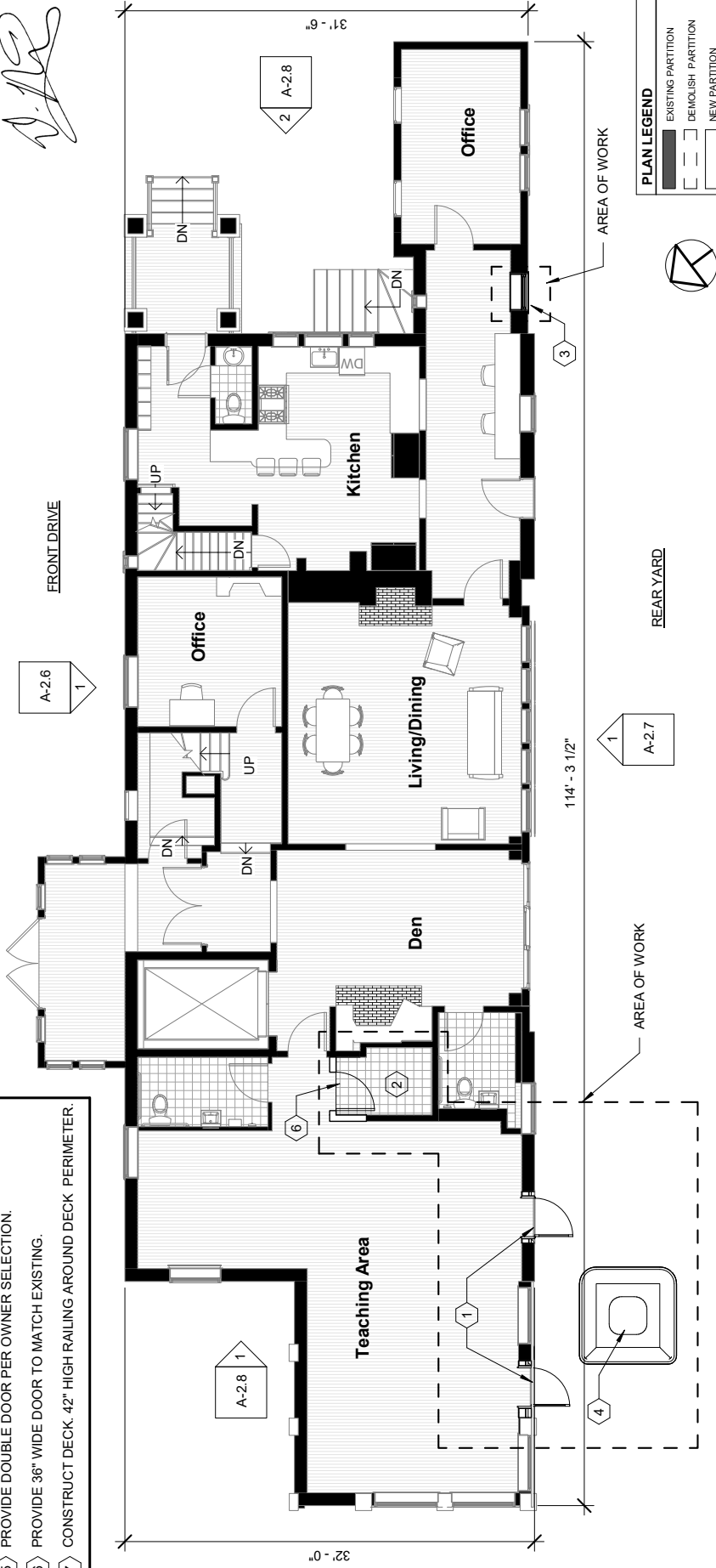
JOB # 2133
SCALE: As Indicated
DATE: 06/19/2021
BY: JA
CROSS REF:

CONSTRUCTION PLAN KEY NOTES

- 1 PROVIDE 36" WIDE FRENCH DOORS PER OWNERS SELECTION.
- 2 CONSTRUCT WALL TO CREATE DRY SAUNA
- 3 PROVIDE WINDOW TO MATCH EXISTING.
- 4 PROVIDE SUNKEN JACUZZI ON THE OUTSIDE.
- 5 PROVIDE DOUBLE DOOR PER OWNER SELECTION.
- 6 PROVIDE 36" WIDE DOOR TO MATCH EXISTING.
- 7 CONSTRUCT DECK. 42" HIGH RAILING AROUND DECK PERIMETER.



[Handwritten Signature]



1 Proposed First Floor
1/8" = 1'-0"

DEREK RUBINOFF ARCHITECT
82 Spring Street West
Roxbury, MA 02112-4316 617-504-2399
inquiries@derek-rubino.com

Proposed First Floor Plan
920 South Street
Needham, MA 02492

A-2.2

JOB # 2133
SCALE: As Indicated
DATE: 06/18/2021
DRAWN BY: JA
CHECKED BY:

- CONSTRUCTION PLAN KEY NOTES

1

PROVIDE 36" WIDE FRENCH DOORS PER OWNERS SELECTION.

2

CONSTRUCT WALL TO CREATE DRY SAUNA

3

PROVIDE WINDOW TO MATCH EXISTING.

4

PROVIDE SUNKEN JACUZZI ON THE OUTSIDE.

5

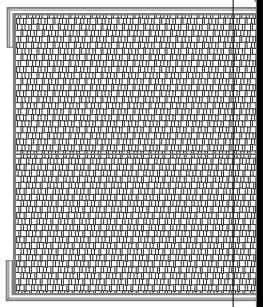
PROVIDE DOUBLE DOOR PER OWNER SELECTION.

6

PROVIDE 36" WIDE DOOR TO MATCH EXISTING.

7

CONSTRUCT DECK. 42" HIGH RAILING AROUND DECK PERIMETER.

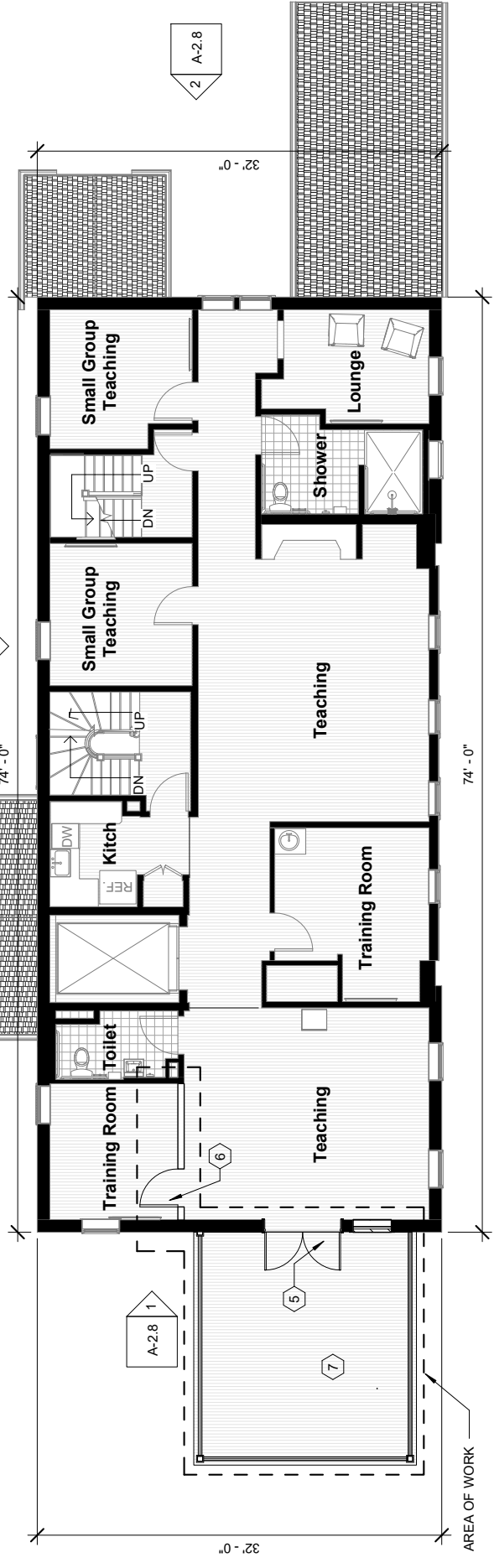



A-2.6

1

FRONT DRIVE (BELOW)

74' - 0"



2

A-2.8

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

REAR YARD (BELOW)

1

A-2.7

1

Proposed Second Floor

1/8" = 1'-0"

DEREK RUBINOFF ARCHITECT

82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubinoff.com

Proposed Second Floor Plan

920 South Street
Needham, MA 02492

JOB #

2133

SCALE

As Indicated

DATE

06/18/2021

CROSS REF.

JA

A-2.3

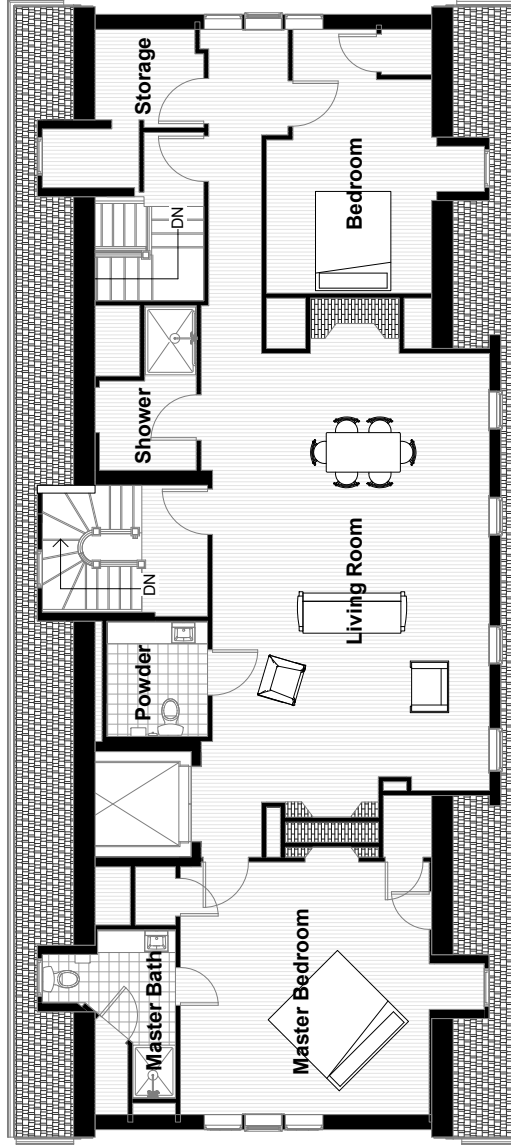
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D. Rubino

A-2.6
1

FRONT DRIVE (BELOW)



A-2.8
1

2
A-2.8

1 Proposed Third Floor
1/8" = 1'-0"

1
A-2.7

REAR YARD (BELOW)

NOTE:
PATCH CEILING & FLOORS
AS REQUIRED WHERE
PARTITIONS HAVE BEEN
REMOVED

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION



DEREK RUBINOFF ARCHITECT
82 Spring Street West Roxbury, MA 02132-4316 617-504-2379 inquiries@derek-rubino.com

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Proposed Third Floor Plan (Residential Suite)

920 South Street
920 South St
Needham, MA 02462

OBJ: 2133
SCALE: As Indicated
DATE: 06/18/2021
CROSS REF: JA

A-2.4



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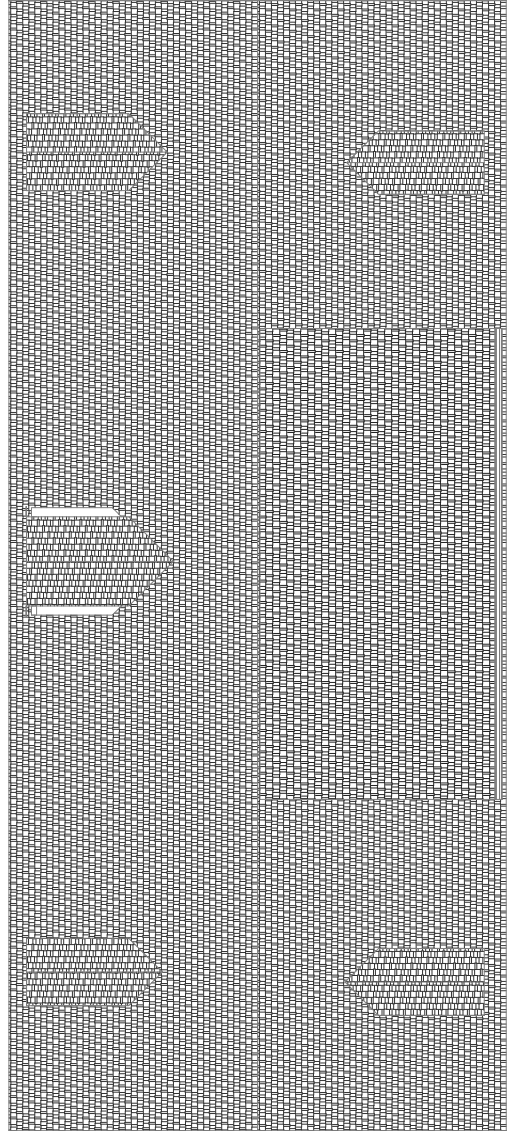
NOTE:
NO PROPOSED WORK ON THIS FLOOR

FRONT DRIVE (BELOW)

A-2.6
1

A-2.8
1

2
A-2.8



REAR YARD (BELOW)

1
A-2.7

1
Proposed Roof
1/8" = 1'-0"

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION



DEREK RUBINOFF ARCHITECT
82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubino.com

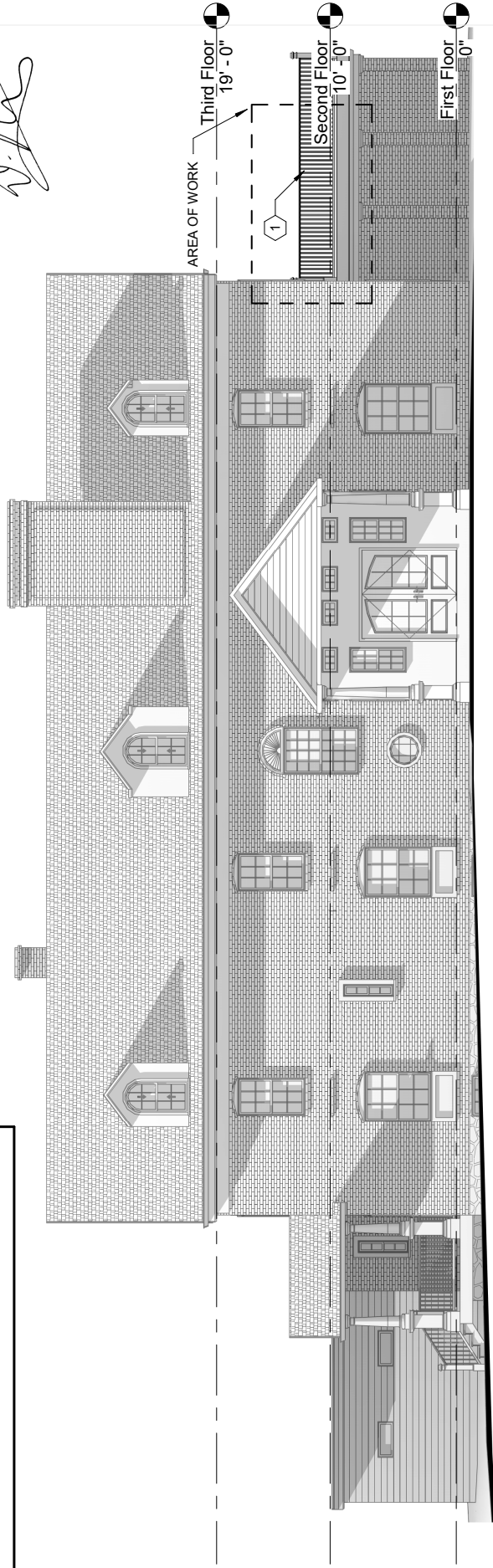
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Proposed Roof Plan
920 South Street
Needham, MA 02492

JOB #	2133
SCALE	As Indicated
DATE	06/18/2021
DRAWN BY	JA
CROSS REF.	

A-2.5

CONSTRUCTION EXTERIOR ELEVATION KEY NOTES	
1	CONSTRUCT DECK, 42" HIGH RAILING AROUND DECK PERIMETER
2	PROVIDE 36" WIDE DOORS PER OWNERS SELECTION.
3	PROVIDE WINDOW TO MATCH EXISTING.
4	PROVIDE OUTDOOR SUNKEN JACUZZI.
5	PROVIDE DOUBLE DOOR PER OWNER SELECTION.

1 Proposed Front Elevation
1/8" = 1'-0"

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

DEREK RUBINOFF ARCHITECT
82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubinoff.com

6/19/2021 11:42:19 AM
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Proposed Front Elevation
920 South Street
920 South St
Needham, MA 02492

JOB # 2133
SCALE: As Indicated
DATE: 06/18/2021
DRAWN BY: JA
CROSS REF:

A-2.6

CONSTRUCTION EXTERIOR ELEVATION KEY NOTES

1

CONSTRUCT DECK. 42" HIGH RAILING AROUND DECK PERIMETER

2

PROVIDE 36" WIDE DOORS PER OWNERS SELECTION.

3

PROVIDE WINDOW TO MATCH EXISTING.

4

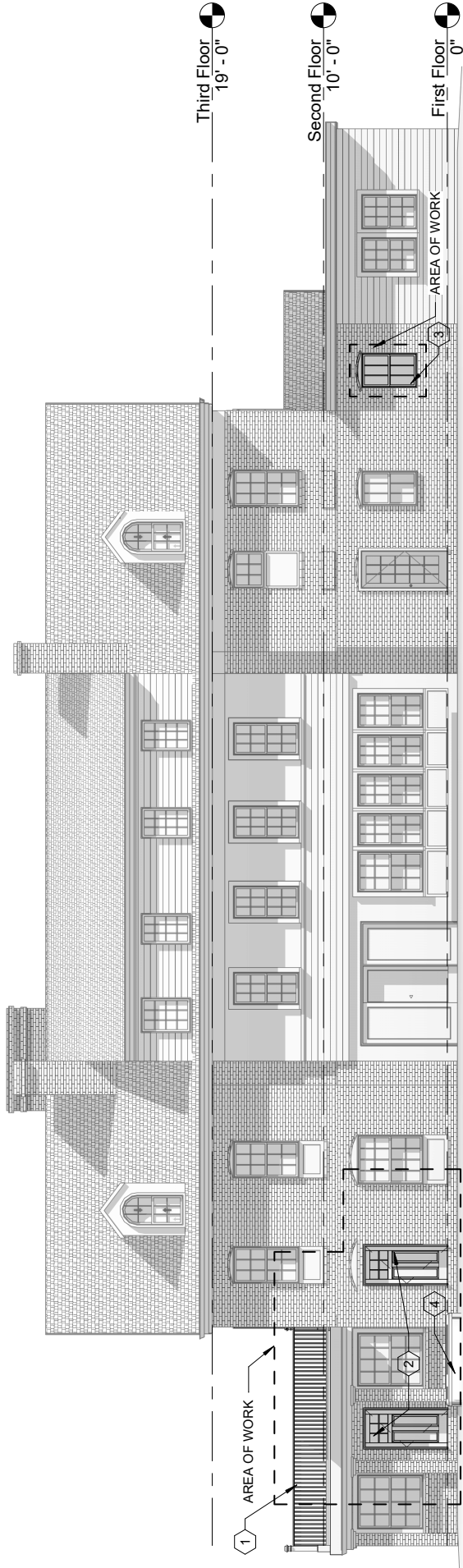
PROVIDE OUTDOOR SUNKEN JACUZZI.

5

PROVIDE DOUBLE DOOR PER OWNER SELECTION.



[Handwritten signature]



1 Proposed Rear Elevation
1/8" = 1'-0"

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

DEREK RUBINOFF ARCHITECT

82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubinoff.com

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Proposed Rear Elevation

920 South Street
920 South St
Needham, MA 02492

JOB # 2133

SCALE: As Indicated

DATE: 06/19/2021

DRAWN BY: AMDB

CROSS REF:

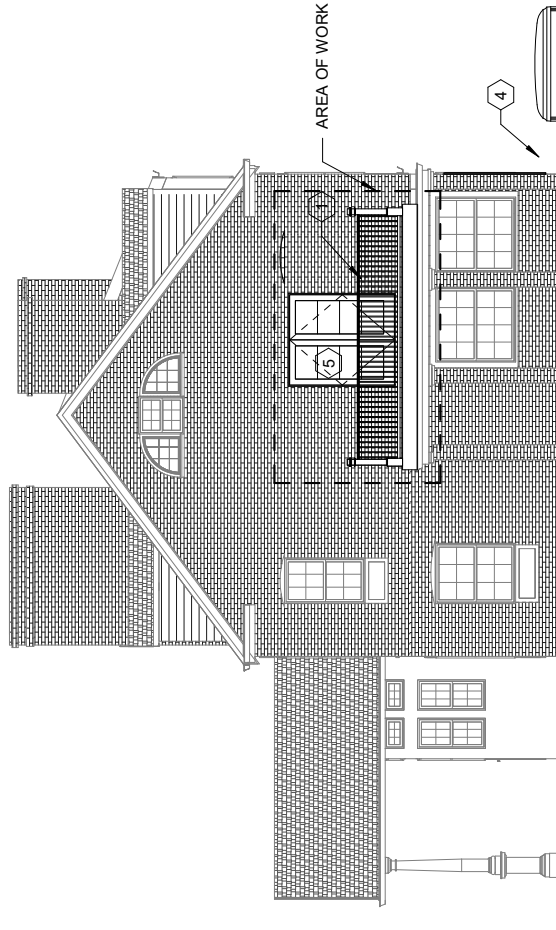
A-2.7

CONSTRUCTION EXTERIOR ELEVATION KEY NOTES

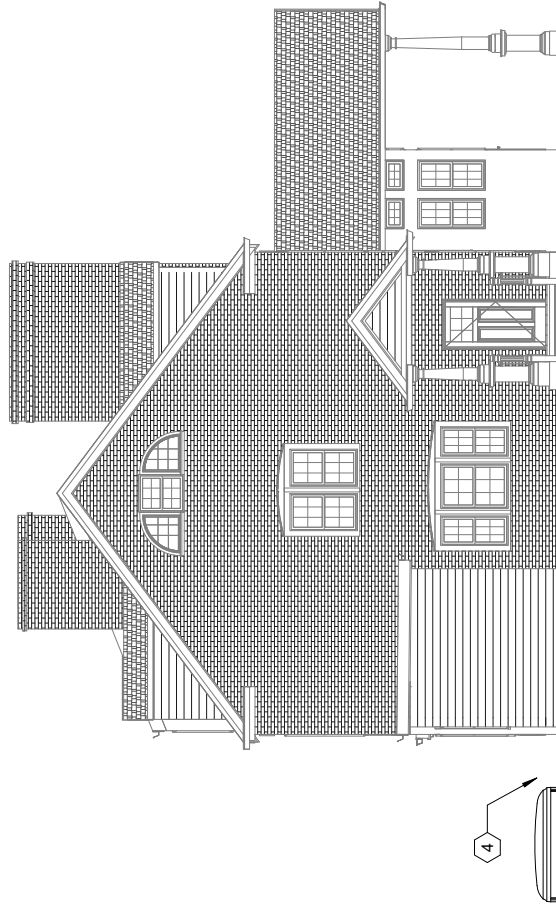
- 1) CONSTRUCT DECK. 42" HIGH RAILING AROUND DECK PERIMETER
- 2) PROVIDE 36" WIDE DOORS PER OWNERS SELECTION.
- 3) PROVIDE WINDOW TO MATCH EXISTING.
- 4) PROVIDE OUTDOOR SUNKEN JACUZZI.
- 5) PROVIDE DOUBLE DOOR PER OWNER SELECTION.



[Handwritten signature]



1) Proposed Right Elevation
1/8" = 1'-0"



2) Proposed Left Elevation
1/8" = 1'-0"

PLAN LEGEND	
	EXISTING PARTITION
	DEMOLISH PARTITION
	NEW PARTITION

DEREK RUBINOFF ARCHITECT

82 Spring Street West Roxbury, MA 02132-4316 617-504-2399 inquiries@derek-rubinoff.com

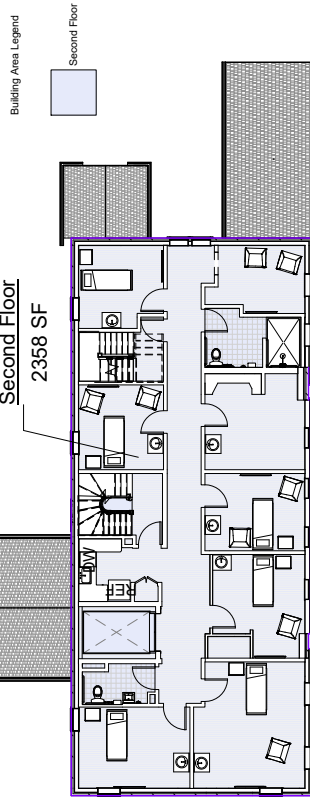
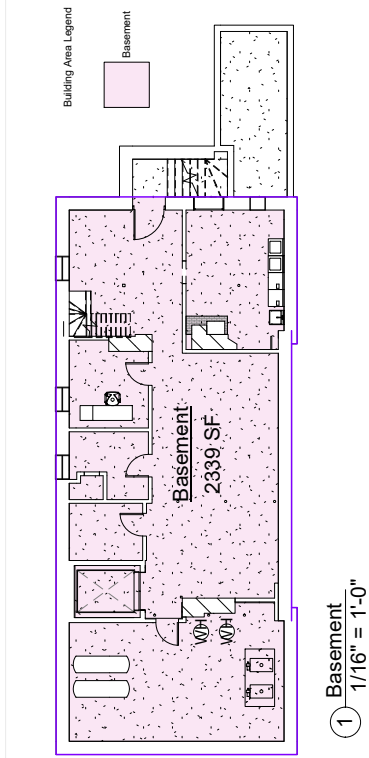
6/19/2021 11:42:29 AM C:\Users\DRAC\Computer7-PC\Documents\920 South_pj\173EQ2.rvt

Proposed Left & Right Elevation

920 South Street
920 South St
Needham, MA 02462

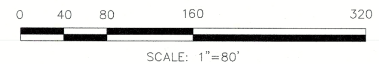
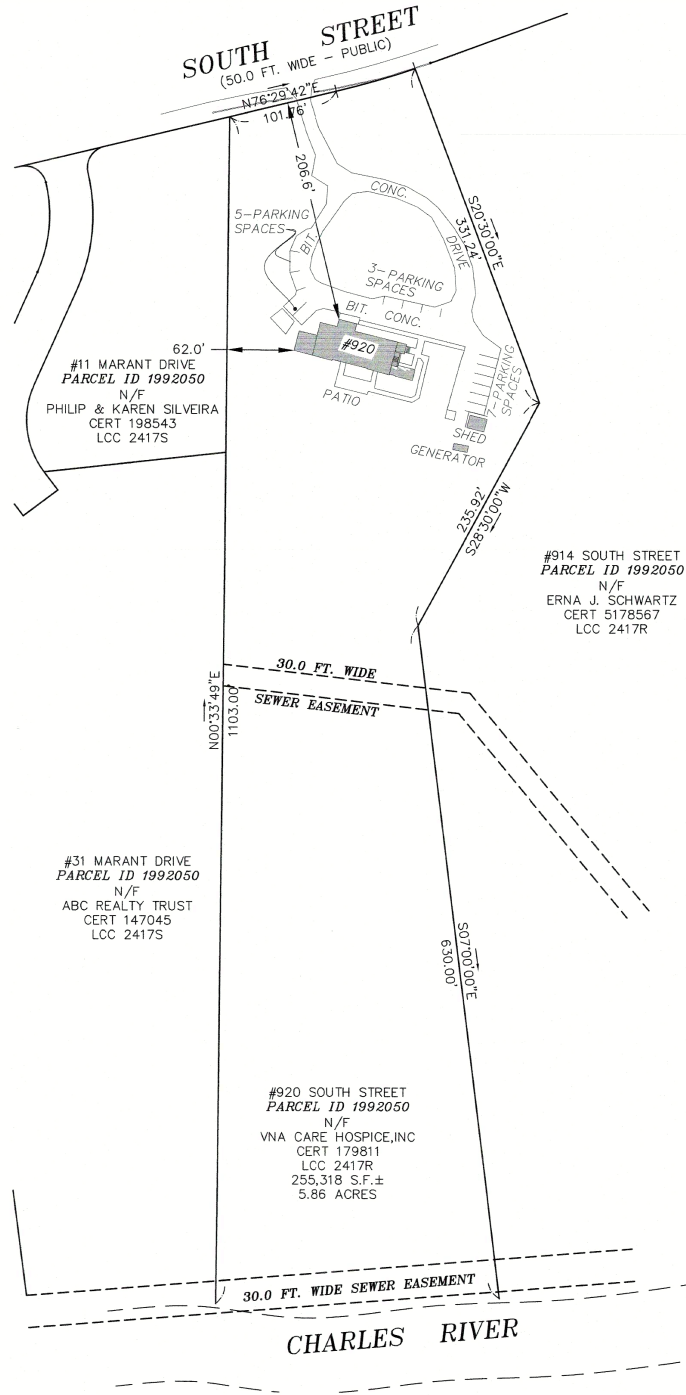
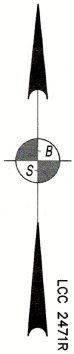
A-2.8

OR #	2133
SCALE	As Indicated
DATE	06/19/2021
BY	JA
CROSS REF.	



Area Schedule (Gross Building)	
Level	Area
Basement	2339 SF
First Floor	3024 SF
Second Floor	2358 SF
Third Floor	1696 SF
Grand total: 4	9417 SF

DEREK RUBINOFF ARCHITECT
 81 Spring Street, West Roxbury, MA 02132-4316 617-504-2599 inquiries@derek-rubinoff.com



CATEGORY	REQUIRED	EXISTING	PROPOSED
MIN. LOT SIZE	43,560 S.F.	255,318 S.F.	255,318 S.F.
MIN. LOT FRONTAGE	150	177.65'	177.65'
MIN. LOT COVERAGE	15%	1%	1%
MIN. FRONT SETBACK	50'	206.60'	206.60'
MIN. SIDE SETBACK	25'	61.98	61.98
MIN. REAR SETBACK	25'	850±	850±
PARKING SPACE	TBD	15	15



PLAN OF LAND 920 SOUTH STREET NEEDHAM, MASSACHUSETTS (NORFOLK REGISTRY OF DEEDS)

PREPARED FOR
RIVERDALE REALTY TRUST
14 SAMMET AVENUE
ROSLINDALE, MA 02131
617-388-0585



GREATER BOSTON SURVEYING AND ENGINEERING
19 FREDITH ROAD
WEYMOUTH, MA 02189
(781) 331-6128

CALC BY: PJT DATE: JUNE 8, 2021 SCALE: 1"=80'

NEEDHAM PLANNING BOARD MINUTES

March 16, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, March 16, 2021, at 7:15 p.m. with Messrs. Alpert, Jacobs, Owens and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of the Board members and staff. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. She noted this meeting includes a public hearing and there will be an opportunity for public comment. If any votes are taken at the meeting the vote will be conducted by roll call.

Board of Appeals – March 18, 2021

Allen Douglas and Christine Lachkey – 238 Highland Avenue

Ms. McKnight stated this is the Montessori School. They want to take over the vacant space next door and increase students and staff. There will be improvements in 2 parking areas. There will be a decrease in the number of parking spaces.

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

VOTED: "No comment."

Melissa Gale/The Cookie Monstah Company – 1257 Highland Avenue

Ms. McKnight noted Stacy's closed recently and Cookie Monstah wants to go in. There is a request for a waiver of parking.

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

VOTED: "No comment."

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

VOTED: to automatically continue the meeting to 3/23/21 at 7:00 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight and authorize the Vice-Chairman to continue the meeting if the Chairman has technical difficulties.

Public Hearing:

7:30 p.m. -- Article 1: Amend Zoning By-Law --Highway Commercial 1 Zoning District **Article 2: Amend Zoning By-Law – Highway Commercial 1 Zoning District Schedule of** **Permitted Special Permit Uses** **Article 3: Amend Zoning By-Law – Map Change to Highway Commercial 1**

Ms. McKnight noted this will create a new zone called Highway Commercial 1 Zoning District. It will place the Muzi property and Channel 5 property in this new district.

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

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

Ms. McKnight turned the hearing over to Mr. Block. Mr. Block stated this is a revised proposal. It is approximately 15 acres in the Industrial District area. The district includes Muzi Ford and Channel 5. The new district is bounded by 128 to the east, Highland Avenue to the south, Gould Street to the west and the MBTA right-of-way to the north.

Natasha Espada, of Studio ENEE, consultant to the Planning Board, stated she looked at how to continue the commercial corridor into this site. The corner of the site is flat but goes to a big slope down in the back. She looked at the density of the town and the corridor, which runs from Chestnut Street to Newton. All the buildings are similar in size at 2½ to 3 stories and larger across the highway. This would create a continuity of the street. She showed the train and bus lines and noted there is no public transportation at this site.

Mr. Block stated they looked at the underutilized site. The goal is to unlock a higher and better use that makes a stronger contribution to the town while respecting an area that abuts residential. He noted there was a previous zoning proposal that went to Town Meeting in October 2019. The proposal passed by a majority but failed to pass by a super majority to affect the change. He stated the Needham Heights Neighborhood Association had a community meeting, and a working group was created that consisted of members of the Finance Committee, the Select Board and the Planning Board. The proposal was revised based on feedback given. Three changes were made that reduced the scope and scale of the development, reduced the maximum heights and added a multi-family residential development option ~~was included~~.

Mr. Block showed the uses allowed by right and by special permit. Those uses will continue to be allowed. He noted the red text shows currently-allowed uses not carried forward into the new proposal, the green text shows new uses proposed in the 2019 proposal and the pink text shows the new uses now proposed. He noted the size of retail has been reduced to 5,750 feet by right and 10,000 square feet by special permit. Retail will serve as amenities for the immediate residents and occupants of the buildings. There will be a maximum of 240 residential units with a minimum of 40% and a maximum of 70% of 1-bed~~room~~ units. There will be 12½% affordable units.

~~He~~ Mr. Block highlighted the dimensional changes between the 2019 proposal and the current proposal.

~~Mr. Block~~ He noted the 2019 proposal had an FAR of 1.75 by special permit. That FAR has been reduced to 1.35 based on feedback received. The maximum height proposed in 2019 was 70 feet or 5 stories by right and 6 stories by special permit. The new proposal has reduced the height to 56 feet with a maximum 4 stories by right and 70 feet maximum by special permit. He ~~summarized~~reviewed the proposed dimensional requirements for height and FAR. The FAR is 1.0 by right and 1.35 by special permit with a 35-foot maximum height by right and 48-foot maximum height by special permit.

Mr. Block noted with the current zoning there is no minimum open space requirement and no rear setback requirement for parking garages. The new proposal has a 20% minimum open space requirement and a setback for parking garages. He explained the developer must ~~obtain~~submit a Site Plan Special Permit for any building greater than 10,000 square feet. This ensures the Planning Board has control. While a Site Plan Special Permit project cannot be denied, the Planning Board can impose reasonable terms and conditions. If the developer applies for a Special Permit for use the Planning Board has much greater discretion to alter or even deny. The Planning Board will post a notice and give notice to abutters. He explained the process of the public hearing.

Ms. Espada showed sample site plans. She then showed the existing 3-story building on the Channel 5 site and the 2-story building on the Muzi site. She created and showed examples of a 1.0 FAR as of right and a 1.35 FAR by special permit with a single building and multiple buildings. 20% of the site is shown as green space and she showed the current curb cuts, which will remain. She showed views from all angles. She pointed out the 20-foot buffer around the entire site with landscaping for all the options. Ms. Espada discussed the special permit zoning and showed options with single and multiple buildings. The parking and building setback is 200 feet from Gould and Highland with landscaping all around.

Rebeca Brown, of Greenman Pederson, Inc., evaluated the maximum traffic impacts that could result with a 1.35 FAR and any traffic mitigations that would be required. She noted the study area and the intersection closest to the site that would be impacted. She stated the developer would be required to do a traffic analysis once there is a project for this site. A considerable amount of data was already collected prior to Covid 19. A 2015 study was done by BETA for rezoning of this site previously. A 2019 post construction traffic study was done for the 128 Add-A-Lane project which included Gould Street and Highland Avenue. She noted the traffic volume decreased 13 to 15% post construction. During construction, Exits 18 to 20 were under construction and one ramp was closed. There was a detour from Hunting to Highland during~~for~~ the 2015 study. There was a decrease in traffic once the construction was completed with a 43% drop in traffic on Hunting Road. Traffic increased 7 to 11% in this area post construction.

Ms. Brown stated she used the 2015 data for areas where there was no 2019 information, ~~for~~ as it represented a worst-case scenario. She grew out to a 10-year condition using a 1% growth rate. She looked at the volume prior to the start of Add-A-Lane and compared it to the 2019 data collected prior to Covid. She also looked at a worst-case scenario for most traffic trip generation. She showed existing trips, proposed trips and the net increase using a worst-case scenario. She did not include pedestrians or bicyclists. She also looked at traffic management. Ms. McKnight stated residential is included in the mix of uses and asked if that makes it better or worse. Ms. Brown stated she had been asked to look at that with 240 residences. There is a significant drop in total trips generated. The a.m. and p.m. trips are revised and it actually helps to even out traffic. She looked at journey to work trips, existing travel patterns and building density. All 3 models have similar trip generations. There is about 40% of traffic using residential streets and there is 60% to and from the highway. Ms. Brown described the study area intersections with 2030 level of services, no build versus build. The Central Avenue at Gould intersection is a level of service F now. Any increase in traffic would make it worse. That intersection is already being prioritized for improvements by the town. She focused on the 2 site drives and the Highland and Hunting intersection that would be level E or F. Both are being looked at by Mass DOT.

Ms. Brown looked at mitigations that would be required. The 2 site drives would need to be widened for 2 lanes each side. A traffic signal would be needed at the farther drive. Gould Street would need to be widened from the site drives to Highland Avenue. There would be 2 left turns, a dedicated through lane and a right turn lane. Highland Avenue would need to be widened for an exclusive right lane and a dedicated right lane to the site drives. There would be dedicated left turns to each of the 2 site drives. There are no proposed off-site property takings on Hunting or Highland. The widening would be into the site so it would be a taking from the property itself and would not push the setbacks into the site UNCLEAR. This would require a signal easement on Gould Street. She showed the impacts on the area. She noted, with improvements, all study area intersections return to Level E or better, ~~noting that~~ ~~this~~ includes a worst-case scenario with a greater mix of uses.

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Select Board Member Marianne Cooley discussed the fiscal impact. She noted they listened to the townspeople who want a gateway and do not want a warehouse. This is a change and change is difficult. She stated they are all there to help and do the best by Needham. She showed the fiscal impact with the assessed value and the net revenue change. She noted the net tax revenue would be \$78.5 million for use by the town, with no residential use. There would be a \$52 million net change with mixed multi-use ~~and including~~ residential.

Mr. Block stated, on a procedural note, the zoning proposal will appear at Town Meeting with 2 Articles. There will be one main article and the other is a map change. There will need to be a 2/3 majority vote to adopt. The Board has listened to constructive feedback, reduced the size of retail, reduced the scale and scope of development, reduced maximum heights and included multi-family residential use. Traffic mitigations are possible and can improve the flow of traffic. Mr. Block noted the net revenue annually will alleviate a significant tax burden for taxpayers. He then opened the meeting for public comments. He stated each person would have 2 minutes for comments.

Barry Pollack noted traffic data and property takings. He stated there is a petition with 650 signatures objecting to this. He noted an email from Planning Director Lee Newman to Town Engineer Anthony DelGaizo, dated 1/20/20, regarding traffic counts only being good for 5 years and the information needing to be updated. Covid created an opportunity to use the 2015 data. He stated the presentation November 18, 2020 noted Levels D and F services and

what could be done. Gould and Central Level E would require adding a lane on Gould with 100 feet of lane. The greatest need is Hunting northbound lane, which would need property takings on both sides. Select Board Member Matt Borrelli did not think this was ready in 2020. Mr. Block noted Mr. Pollack had used his time and he will go back to him if there is time at the end.

Leigh Doukas stated she is not representing any group she is part of. Her opinions are her own. The FAR-~~use~~ was increased by 50%. All other districts with commercial use abut residential with a 50-foot setback and a 25-foot landscape buffer requirement. That should be the minimum allowed in this case. The traffic report does not talk about impacts on ~~as-of-~~right property. There will be a tremendous amount of additional cars. This will impact residents of the area and the values of those properties. She has no issue with a maximum 42-foot height closest to Highland and Gould.

Monty Krieger, of 33 Woodbine Circle, stated the data shows Highland and Hunting traffic will be worsening. There is a substantial amount of increased funds, ~~but-~~ ~~What~~ what would it cost to increase homeowners' taxes rather than live with greater traffic?

Susan Nissen, of Homesy Lane, asked Mr. Block to share the official position of the Needham Heights Neighborhood Association. Mr. Block stated this is not a forum for any private organization. The questions should be related to the zoning change only.

Joan Berlin, of Parker Road, noted the traffic projections and asked what projects GPI has worked on, were the projections accurate and for how long. She feels there should be greater impact. She asked if Ms. Brown has gone back to see if her projections were correct. Ms. Brown stated she very often has to go back. Almost always on larger projects a requirement is a post occupancy monitoring study, which includes traffic counts at the development and in surrounding areas.

Artie Crocker stated the question is how large not if. All buildings leading up to the intersections are not as large as what is proposed. This is not the other side of 128. The 2 sides are quite different. He stated the townspeople were shown something for the Hartney Greymont site but it was not accurate and was not true. This case is accurate but what was shown was not 35 feet high on Gould and Highland. Wingate is 20 feet high in the flat section and is further away from Gould than this would be. He feels things should be put into perspective. The Board needs to remember the worst-case scenario and show it. He feels there is no need to go to this size to get similar tax revenue. He feels it should be pushed back 100 feet and then go to the 35 feet. Needham is not a city and should not gear zoning to make it a city. He feels the town can do better than what we are doing.

Ben Daniels, of 5 Sachem Road, is directly across Highland Avenue from Muzi. He is disappointed this is back again. He feels it is premature to change the zoning without a proposal in front of them. The townspeople are being scared with hypothetical warehouses and junk yards. The Board should wait until a real project comes along like Newton. This benefits the Muzi family. He was told there was no correspondence with the Muzi family but there was. Why should the public believe what we are hearing? Ms. McKnight stated Mr. Daniels comments were out of order. The focus needs to be on zoning.

Dan Goodman, of 807 Great Plain Avenue, stated it was obvious the Planning Board put a lot of research and thought into the proposal and took comments into consideration. He is impressed with the proposal and pleased with the housing inclusion. The size is well within reason and fits in with the surrounding area. He will be excited to see this rather than what is there today. He is in favor.

Jane Volder, of 133 Brookside Road, is concerned with the traffic report. All the development going in on Needham Street in Newton would impact traffic in the future. Also, traffic does not look at the trickle effect down Central Avenue and other roads. She is concerned with the cost of mitigations. Is that paid for by the town? Mr. Block noted mitigations are paid for by the developer. Ms. Volder stated the green space only looked like 20 feet off the street border. Taxes have gone up every year. She is concerned about the continual increases in real estate taxes.

Peter Schuller stated this is premature and not a developer's plan. There is inadequate data. He yielded the rest of his time to Mr. Pollack. Steve Deroian, of Lindberg Avenue, stated this is premature. He yielded his time to Mr. Pollack. Tom Shockett, of 174 Evelyn Road, stated when traffic was diverted for Add-A-Lane people found all ways to get around. People would go through their neighborhood. Ten thousand cars a day will go through their neighborhood. He was told that Muzi spoke with the Board. That was a matter of public record and not an accusation. He ceded the rest of his time to Mr. Pollack.

Chris Lalond, of Bennington Street, feels this proposal dangerously opens the door for other property owners. He yields the rest of his time to Mr. Pollack. Alex Puzikov agreed with all the previous speakers. There is overcommercialization of the property and would allow larger buildings to be built. Twenty feet is a very small setback and there is a lot of traffic currently. He yields the rest of his time to Mr. Pollack. Nicky Pollack, of 15 Pandolf Lane, asked how many people were on this [Zoom hearing](#) call and asked if this would be made public. Mr. Block stated there were 197 people on the call. Ms. Pollack stated in 10 days there were 650 people who signed a petition. This is premature and should be 3 stories. She asked if the Board was considering the options and the scaled down proposal. Mr. Block stated the Board is looking at everything.

Nancy Greenwald, of 615 Highland Avenue, feels her property will go down in value. The project is too large and the town should wait for a developer with a project. She gave the rest of her time to Mr. Pollack. Justin Oriel, of 47 Lee Road, agrees with Mr. Crocker, Mr. Pollack and Mr. Daniels. He deferred the rest of his time to Mr. Pollack.

Andy May, of 32 Lee Road, asked if any analysis has been done on the impact on residential streets. Ms. McKnight noted that Ms. Brown had stated when there is a development proposal in front of us there would be further traffic analysis done and it will include surrounding streets. Mr. May asked if any analysis was done to determine property values of things this size and the impact on abutters. He asked what would happen with Mills Field. He feels there is not enough green in the project. He appreciates the project was scaled back but this is unsightly and should go back further.

Yulia Marie, of 93 Hillside Avenue, noted the impact on schools. The schools did not take into account the housing on the other side of 128. She asked how this will impact the schools. Selectwoman Cooley stated the expected number of children would be 28 for a 1.0 FAR and 38 for a 1.35 FAR. This number of children could be accommodated as they would be spread across all grades. Ms. Marie noted class sizes are larger than surrounding towns.

Glen Mulno, of 40 Morton Street, does not think the traffic study has taken into account Newton on the other side of the bridge. This should be taken into account. He commented he is confused. The zoning was going to include housing but not require the developer to add it. Mr. Block stated it is up to the developer to decide. Developers are not required to do anything but may choose to do office, mixed use or housing. Mr. Mulno asked why come up with a plan to appease the Muzi family without an actual plan.

Mike Michaud, of Daley Street, stated he lives off St. Mary Street and is new to town. He asked why this area was not involved in the traffic study. Oscar Mertz, of 67 Rybury Hillway, thanked all for their participation. He stated the idea of doing this zoning is critical to make a lot happen. Housing is not available in the current zoning and it is important to change that. He looks forward to a transparent process.

Ellen Finn, of Greendale Avenue, wants the Board to think about green spaces. The townspeople have asked for home grown organic but are being offered strip malls and research and development but not hockey rinks and green spaces. It is not a livable community. There needs to be outside the box thinking. This is an opportunity for a developer to make money. There has been 8 years of constant construction in their neighborhood. This is creating greed opportunity investments. She asked how the community can buy this property and engage abutters. She feels what was a good community is being destroyed.

Mr. Block invited all to send comments to the Planning Board. All comments will be considered up until and through 5:00 p.m. Thursday. He stated the Board has received good feedback tonight and from the 2/3/21 community meeting. He thanked all and asked members of the public to send comments to

planning@needhamma.gov. He noted the presentation and related materials will be posted on the website. The Planning Board intends to vote on 3/23/21.

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

VOTED: to close the hearing with the exception of receiving written communication until Thursday, 5/18/21, at 5:00 p.m.

Report of the Planning Director and Board members.

Ms. Newman noted she met with the representatives of the 128 Business Council that runs the shuttle service of the New England Business Center. There were 9 properties that participated in the shuttle. The Board imposed conditions on some projects. Three projects, with 2 owners, have dropped out of participation. She asked what kind of action the Board wants to take to enforce action as they are not complying with the permits. Ms. McKnight stated the ridership has gone down but the provider has allowed for that. Ms. Newman stated the operational costs have gone down and the costs have been shifted onto the remainder of the other participants. This has been a benefit to the town and is in jeopardy. She noted the question is if the Board is going to enforce the condition that the businesses need to supply shuttle service. Ms. McKnight suggested sending a demand letter if there is a violation. She wants to see compliance. Mr. Jacobs agreed but would also like the proponents to come before the Board to explain what is going on. Ms. Newman will reach out to the 2 property owners to come before the Board on 4/6/21. Mr. Alpert suggested the second meeting in April when Ms. Espada is on the Board.

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

VOTED: to adjourn the meeting at 9:55 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

March 23, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, March 23, 2021, at 7:15 p.m. with Messrs. Alpert, Jacobs, Owens and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of the Board members and staff. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. She noted this meeting includes a public hearing and there will be an opportunity for public comment. If any votes are taken at the meeting the vote will be conducted by roll call.

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

VOTED: to automatically continue the meeting to 3/24/21 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight and authorize the Vice-Chairman to continue the meeting if the Chairman has technical difficulties.

Discussion and Vote Planning Board Recommendations:

Article 1: Amend Zoning By-Law --Highway Commercial 1 Zoning District

Article 2: Amend Zoning By-Law – Highway Commercial 1 Zoning District Schedule of Permitted Special Permit Uses

Article 3: Amend Zoning By-Law – Map Change to Highway Commercial 1

Ms. McKnight stated it would be helpful to start with a background of the Planning Board's role and why the Board has worked so hard on this over the past few years. The Planning Board is responsible for guiding growth and development, reviewing uses allowed under existing zoning and recommending updates to enhance the commercial tax base. The land within the proposed district is currently in the Industrial District. The Planning Board determined that for the gateway location, and a mixed-use district consistent with the Highland Avenue corridor was warranted. She expects, with time, it should attract high value redevelopment. A rezoning plan was developed and presented to Town Meeting in 2019. She noted the Board relies on traffic and fiscal impact reports to guide its ~~for~~ their decisions.

Mr. Block gave the context. This has been a 7-year process which was started in October 2013 through the Council of Economic Advisors (CEA). [The CEA looked at zoning districts across all individual districts.unclear] There have been 45 meetings, which shows the intention that has gone into this. The rezoning of the New England Business Center was successful. Ms. McKnight stated the role tonight is to discuss some non-substantive changes that were sent around. Then the role is to discuss substantive changes. Fifty comments came in before the hearingmeeting last week, and an additional 80 comments came in after the hearing. She reviewed the non-substantive changes and suggested some changes for clarity. She noted clarified wording for heights and setbacks for garages on page 5 and noted the parking structure paragraph was moved up. For the section on Special Permit requirements, she brought in wording on Special Permit process and strengthened the Special Permit requirements.

Ms. Newman noted a couple of areas to focus on. One should be the proposed FAR of 1.0 as of right and 1.35 by special permit. The existing zoning has an FAR of .5 and up to .75. The Board should ensure the limit is appropriately set to trigger a special permit. The as-of-right FAR should be brought down to the .7 or .75 range. Another issue she heard was the proposed height limit, especially along the Highland Avenue corridor side. It is proposed to be 2 ½ stories at 35 feet by right, which mirrors the Highland Avenue corridor. The proposed special permit height within the 200-foot setback is 42 feet with a flat roof and up to 48 feet with a sloped roof. The Board may want to set a standard of 40 to 42 feet that is comparable with the overlay zone in the Highland corridor. The

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other issue was the setback along Gould and Highland ~~proposed to be~~ 20 feet. The ~~existing~~ setback is 50 feet under the existing zoning. There is an actual 20 to 23-foot setback currently and 35 feet where the cars are. Unclear Wingate at the corner of Highland Avenue and Gould Street is set back around 25 feet, and the independent living apartments are set back 50 feet from Gould Street and. Along Putnam Avenue the setback is 25 feet. The Board should see determine if a 20-foot setback is adequate or if it should be increased up to 50 feet or 30-35 feet along the corridor.

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Ms. McKnight stated the requirement for open space at 20% was mentioned a lot at the hearing. Mr. Owens noted he is not sure why this is being discussed at this late hour. There has been intensive discussion the last 4 years. The Board has heard from all and made many compromises. He feels it is a serious mistake, with this little preparation and this little time left, to make any changes. He is opposed to making any changes. The proposal is the proposal and it is fair and balanced. The Board has fulfilled their responsibility by bringing it to Town Meeting and letting them decide. He would not reopen these issues at the last possible second and would forward it as written. Ms. McKnight stated the purpose of the public hearing is to hear the public. The Board needs to respond to the comments heard/made by the public. The Planning Director has prepared the necessary changes if the Board wants to do that. It is true it is late in the process and any changes need to get to the Town Manager by Friday, but it can be done.

Mr. Owens asked the basis of the changes. He did not hear anything that he had not already heard. They have been talking about the same issues for months and have come up with a good compromise. Mr. Alpert disagreed with Mr. Owens. The purpose of a public hearing is to hear the public, keep an open mind and make any changes necessary. He was never personally wedded to the requirements for setbacks and open space. The 20-foot setback was for a walk-in from-the-sidewalk space but maybe this is not the location for this to happen. He prefers a 50-foot setback. There were comments about the use table. People want playgrounds, fitness centers, hockey rinks. A public park is allowable as a use now as of right and that will continue to be. Fitness Centers are allowed by special permit and will continue to be allowed. Skating rinks are allowed by right now, and the entire category was moved to a special permit. Personally, he feels any of these uses would be great here. Residential has been added. To change the setback on Gould and Highland is a good idea. The landscape buffer could be the entire setback.

Mr. Alpert noted Section 4.11.2 (3), with the public entrance facing one street, should be removed. He has no preference if the height is reduced from 48 feet to 42 feet and would go along with the change. He thinks the Board did a good job. He is torn about the open space requirement of 20%. It was suggested to increase to 30%. He had reservations about 20% but is not wedded either way.

Mr. Jacobs stated the Planning Director has posted a list of FAQs on the website. He recommends all read this as it answers a lot of questions. He stated the Board did not deal with the argument made that there is a statute that does not allow the Board to approve a zoning by-law amendment ~~project~~ rejected in the last 2 years. He believes the argument is incorrect. He sought the opinion of Town Counsel who agreed with his reading. He is confident there is no 2-year ban.

Mr. Jacobs stated that a lot of negative comments went beyond the pros and cons of the rezoning project. Speaking for himself as a 41-year ~~41-year~~ resident of Needham, his view is those comments are inaccurate, unfair and poisonous. The Board spends thousands of hours trying to help the town. He never had any communications with any Muzi family member. What makes the most sense for that site is what he wants. In October 2019 a prior proposal was voted down which is what Town Meeting is ~~for~~ for, but he wants to point out the proposal did get a majority of votes, just not the 2/3 needed. He felt Town Meeting wanted a scaled down proposal with a housing option. This is exactly what they are bringing. He completely understands where Mr. Owens is coming from. There is very little new here and they have heard it all before. A lot of numbers are arbitrary but you have to draw some lines. The Board settled on these numbers. He noted one provision that allows a 25% waiver of certain issues so the 1.35 FAR could be increased up to 25%. He does not intend for this and it should be pulled out. This should be discussed. He noted the Board could talk about other things but he does feel it is pretty late in the game to make adjustments. He noted a number of comments from people objecting saying the process was flawed. The Board could not have been more open in communicating and asking people for comments.

Mr. Block stated the objective is to decide among 3 choices – keep it as is, submit it with changes or to withdraw the rezoning articles. He re-watched the 2/3/21 community meeting and the public hearing. He read all 135 submissions and petitions. What are the goals and why is rezoning necessary? The goal is to update the existing Industrial 1 Zone into a gateway mixed-use district to continue the Highland Avenue corridor. It is an improvement to the area as a whole. The use list is outdated and includes junk yards, distribution warehouses and such. These are unwanted, and the existing use list does not include a desirable development. This kind of development the rezoning envisions would increase the number of jobs in town and higher paying jobs. A fiscal analysis shows it will generate a lot of money over the years. The Board needs to look at the entire town. This is beneficial to the town as a whole and will reduce the tax burden.

Mr. Block stated the Board is choosing to be proactive to set the table for development so they are not limited in a reactive mode. None of this is new. There have been 45 meetings. He wants to clarify some misinformation. The density and heights for Needham Crossing will not be brought here. The area will not be flooded with 6 to 8 stories. The zoning is only allowing up to 3 stories inside of 200 feet from Highland and Gould, and taller buildings are pushed back 200 feet from Highland and Gould where the topography drops. Legitimate traffic concerns were raised, but there was also misinformation. There were 2 sets of traffic data with one set from 2015. That data was within the 5 years of the 2019 study. The Massachusetts Department of Transportation said the 2015 data was ok to use for the 2020 study. Rather than use the 2019 lower data the Board used the higher counts of the 2015 study to show the worst-case scenario. Takings are a misunderstanding. Some thought there would be takings in multiple places. This is not the case. The only takings are on site and there is no requirement for takings on Hunting Road. He proposes to advance the zoning with the following changes: eliminate the 25% waiver by special permit; recommend increasing the setback on Highland and Gould from 20 feet to 50 feet, as 50 feet is responsive and can encourage a decent scale of development; reduce the FAR from 1.0 to .7 by right; and agree to reduce the maximum height by special permit to 42 feet within 200 feet of Highland and Gould ~~with maximum height by special permit~~. He looked at the open space requirement. He does not know how it would impact other aspects of the development but would recommend increasing to a minimum of 25% open space.

Mr. Alpert stated he is in favor of taking away the 25% waiver ability in Section 4.11.3. In Section 4.11.2 (3), changing the setback from 20 feet to 50 feet, and if the setback is increased to 50 feet that increases the landscape buffer and the open space is right there. Ms. McKnight noted the original concept round the edge on Gould and around to Highland would be shops and such, like the office building at Chestnut Street and Junction Street with a 20-foot setback. She was content with that concept, but at the community meeting and the hearing last week she heard the people want greenery and trees. We need to respect their vision for this site. It is now zoned to require a 50-foot landscape setback. It should go to a 50-foot landscape setback along the frontage on Highland Avenue and all along Gould Street. She noted she took a point from the plan to define the 200 feet. She had not thought about the 25-foot waiver but it gives flexibility so she will go along with it. She would go along with the 50-foot setback, the 25-foot waiver and reducing the by-right FAR. She would be happy with .7 or .75.

Ms. McKnight noted, with regarding to the 48-foot height, there seems to be a movement of support for multi-family housing with an affordable aspect. The idea is to have some incentives. She suggests they keep the 48 feet by special permit, ~~to accommodate~~ provided 50% of the FAR is devoted to multi-family housing including the top floor or going to 42 feet. She is not sure the open space would make a difference whether it is set at 20% or 25%. The 50-foot setback may take care of the 20% landscaping. There is green space in the special permit requirement. The green space could be more, and she is in favor of increasing the green space from 20 to 25%. She welcomes a response on the multi-family-housing incentive she has offered.

Mr. Block asked if the increase in height was inside or outside the 200 feet. Ms. McKnight stated only on the inside. The incentive is just for the front of the property and not the back part. A discussion ensued regarding if 42/48 feet is 3 stories or 4 stories. Mr. Block stated he is not sure this is the place for a developer's vision. He opposes the change. Mr. Alpert does not see a developer putting in an office building saying if he puts in residential units he can get another 6 feet of height. He does not see this as an incentive and feels it should remain with 3 stories and 42 feet. Ms. McKnight stated she would back off from this and reviewed the 6 changes.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote four of the five members present (Mr. Owens voted in the negative):
VOTED: to change the proposed Zoning By-Law as previously presented from a 20-foot landscape setback on Gould and Highland to a 50-foot landscape setback.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote four of the five members present (Mr. Owens voted in the negative):
VOTED: to amend the Zoning By-Law as presented by deleting Section 4.11.2 (3), which eliminates a public entrance on the street.

A motion was made to adjust the FAR in the by right condition from 1.0 to .7. Mr. Jacobs wants the public to know this further increases the odds a developer would choose a special permit path rather than a by right path, which is a good thing.

Upon a motion made by Mr. Block, and seconded by Mr. Alpert, it was by a roll call vote four of the five members present (Mr. Owens voted in the negative):
VOTED: to adjust the FAR in the by right condition from 1.0 to .7

Upon a motion made by Mr. Block, and seconded by Mr. Alpert, it was by a roll call vote four of the five members present (Mr. Owens voted in the negative):
VOTED: to reduce the height limit within the 200-foot area to 42 feet by special permit and 3 stories and eliminate the 48-foot provision by special permit on page 3, Section 1 (b).

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote the five members present unanimously:
VOTED: to amend the Zoning By-Law as presented deleting Section 4.11.3 in its entirety for the 25% waiver.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote four of the five members present (Mr. Owens voted in the negative):
VOTED: to increase the open space from 20% to 25% in Section 4.11.1 (4).

A motion was made to adopt the amended Article 1 Zoning By-Law for Highway Commercial 1 with the changes voted tonight. Mr. Jacobs asked Ms. Newman and Ms. McKnight to undertake a final review. The Chair will work with the Planning Director to make sure all cross references have been covered. The amendment to the motion was accepted to include the above language.

Upon a motion made by Mr. Alpert, and seconded by Mr. Jacobs, it was by a roll call vote four of the five members present (Mr. Owens voted in the negative):
VOTED: to adopt the amended Article 1 Zoning By-Law for Highway Commercial 1 with the changes voted tonight and the Chair will work with the Planning Director to make sure all cross references have been covered.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote four of the five members present (Mr. Owens voted in the negative):
VOTED: to adopt Article 2 – map change for the new Highway Commercial 1 Zone as presented.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Alpert, it was by a roll call vote the five members present unanimously:
VOTED: to adjourn the meeting at 9:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk

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NEEDHAM PLANNING BOARD MINUTES

April 6, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, April 6, 2021, at 7:15 p.m. with Messrs. Alpert, Jacobs, Owens and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of the Board members and staff. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. She noted this meeting includes a public hearing and there will be an opportunity for public comment. If any votes are taken at the meeting the vote will be conducted by roll call.

Ms. McKnight noted this is Mr. Owens last meeting. He has been on the Board for 5 years and it was a pleasure to have him on the Board. Mr. Alpert noted for 4 of the 5 years Mr. Owens was the only non-lawyer on the Board and he brought a perspective to the Board. He will be sorely missed.

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

VOTED: to automatically continue the meeting to 4/20/21 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

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

VOTED: to authorize the Vice-Chairman to continue the meeting if the Chairman has technical difficulties.

Mr. Jacobs noted an item later on the agenda will be continued to a later date. There are several people on the call for that hearing. Ms. McKnight stated the 7:50 p.m. Minor Project [Site Plan](#) Review for Needham Enterprises, LLC for property located at 1688 Central Avenue will be moved to the 5/18/21 meeting. The Board received a letter from Attorney Evans Huber requesting it be taken off the agenda [for the 4/6/21 meeting](#). The applicant agreed the Board may have an additional 30 days after the [5/18/21 meeting](#) to make a decision. The letter also says the applicant is aware the issue of [whether the application should be considered](#) a major project has been raised by the Board. It remains the position of the applicant this is a minor project review.

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

VOTED: to reschedule the appointment on the calendar for a minor [\[special permit?\]](#) review at 1688 Central Avenue to 5/18/21 at 7:30 p.m. and agree with the applicants request [that](#) the time period by which the Board needs to make a decision, by consent of the applicant, be extended to 6/17/21.

Mr. Alpert stated Attorney Huber should be notified, if it is determined this is a major project, [because](#) he will need to withdraw this request without prejudice and file a new application by 4/16/21 in order to get on the 5/18/21 meeting agenda.

Public Hearing:

7:20 p.m. – Article 1: Map Change to General Residence B Zoning District.

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

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

George Giunta Jr., attorney for the applicant, noted the Board heard this request for a map zoning change last spring. This is for a series of properties along [Rte. 128](#), with 23 properties in total. All the properties are directly across the street from Single Residence B District (SRB) properties. Some parcels are larger and there are some that are less than 10,000 square feet. None comply with Single Residence A District (SRA) requirements. All the properties are nonconforming as to frontage and area. He would like the [23 properties now in SRA](#) ~~line~~ moved to the SRB District then most of the properties would become conforming. Most do not conform with the front yard setback for the SRA District. This zoning change would allow owners to make changes and add additions. People would be able to use their properties like the people across the street. The lots do not meet the acre requirements. He noted there is not a compelling policy reason to keep these properties in the SRA District and it penalizes people who want to add an addition.

Mr. Jacobs asked if this is a Citizen's Petition and was informed it ~~is was~~. He asked if the applicants want the Planning Board to recommend approval and was informed yes. Mr. Owens had no comments or questions and noted it looked reasonable. Mr. Alpert agreed. Mr. Block noted there are a lot of homes ~~far~~ further down Hunting [Road](#), and down by Old Greendale Avenue, that are also in the SRA District. He asked if there were any comments from the neighbors ~~far~~ further down in a similar situation. Mr. Giunta Jr. stated he had not heard any comments. There are a lot of wooded areas, and north of Cheney Street is different from south of Cheney Street in the way the lots were created. Mr. Block noted that even with a map change those lots with less than 80 feet of frontage would still need to go to the Zoning Board of Appeals (ZBA) [for approval of structural changes](#). Mr. Giunta Jr. stated only 3 lots would still be nonconforming, but 20 lots would become conforming. The structures would also become conforming. Bruno DeFazio, of 176 Hunting Road, stated he has a 20-foot setback and all other properties are in line with his. Ms. McKnight noted this [hearing](#) will be continued after she deals with the 7:50 p.m. appointment for 1688 Central Avenue.

Appointment:

7:50 p.m. – Minor Project Review: Needham Enterprises, LLC, 105 Chestnut Street, Suite 28 Needham, Massachusetts, Petitioner (Property located at 1688 Central Avenue, Needham, MA).

Ms. McKnight informed any interested parties a vote was taken earlier in the meeting and this [agenda item](#) will be continued to the 5/18/21 meeting at 7:30 p.m. The Board will hear from the residents at that time.

7:20 p.m. – Article 1: Map Change to General Residence B Zoning District—Continued.

Ms. McKnight stated there are a number of lots developed with houses. She asked if any could be divided into 2 lots under SRB Zoning with people conveying strips of land. Mr. Giunta Jr. stated, based on conjecture, there is always the option to do that. All lots have single houses but he does not expect any more than maybe 2 or 3 new houses to go in. South of Kendrick Street the lots are too small to do anything and north of Kendrick Street are a series of lots with 100 feet of frontage. Lots would have to be combined. Mr. Block stated one issue that has come to the Board is building a house behind a house on some longer lots. He would not like to see this happen. Mr. Giunta Jr. stated that is not particularly practical. There would need to be a 40-foot wide road and a 60-foot radius. Three lots would have to be put together but that is not really marketable with 128 behind.

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

VOTED: to close the hearing.

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

VOTED: to recommend adoption of the Article to Town Meeting.

Discussion and Vote of Planning Board Recommendation on Zoning Articles for Annual Town Meeting.

Mr. Jacobs noted, for the record, that ~~he~~ suggested ~~amendments to Article 5~~ changes have come from 2 sources. Ms. McKnight stated she is ~~partactive with~~ Equal Justice Needham, whose members want to remove the 240-unit cap for affordable housing. She is not in favor of removing the cap but has helped them out with drafting of appropriate wording. She noted that Town Meeting Member Barry Pollack had organized opposition to the rezoning set forth in Article 5. Following the hearing on Articles 5 and 6 on 3/16/21 several changes were made to the zoning before it was finalized. This group (the Pollack group) wanted additional changes. They were put in touch with Town Counsel. She understands at the present time the Pollack group is no longer interested in pursuing any amendments.

Mr. Block stated he and Ms. McKnight and Ms. Newman they met with the Finance Committee last week. Questions were asked about the fiscal impact under the existing zoning, by right zoning and special permit zoning. [Mr. Block, Ms. McKnight and Ms. Newman? They] are in the process of completing that for the Finance Committee them. It will be submitted when it is completed. Ms. Newman stated the Finance Committee is meeting next Wednesday. She anticipates they will be asked to attend. This update of Finance Committee response will be discussed at the next Planning Board meeting. The advantage would be, if there are any other amendments, everything could be discussed together.

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

VOTED: to recommend to Town Meeting they adopt the proposed Article 5 Zoning By-Law for the creation of the Highway Commercial 1 District and adopt Article 6 for the zoning provisions (map amendment) for the Highway Commercial 1 District as set forth in the proposed Zoning Article 6.

Board of Appeals – April 15, 2021

Hearst Stations Inc dba WCVB-T, applicant -- 5 TV Place

Ms. McKnight noted there has been a helicopter pad since 1985. The applicant is going back to the old helicopter type.

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

VOTED: "No comment."

Glenn and Deborah Mulno, applicants – 40 Morton Street

Ms. McKnight noted the applicants are adding a screen room on a nonconforming lot.

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

VOTED: "No comment."

Rachel Bright, applicant – 20 Coolidge Avenue

It was noted there are limitation on the FAR of .38. The applicant wants to add on by going up and out to some extent. Ms. Newman noted the existing house is conforming and the present situation is at .37 FAR. The applicant is asking to create a new nonconformity and go to an FAR of .5. Arguably this could require a variance. This is not in keeping in the context of what the Planning Board sent to Town Meeting when the so-called "Large House" Zoning By-law amendments were adopted. Mr. Block noted the 7,000 square foot lot is under the 10,000 square feet required for the SRB District. Ms. McKnight stated it is important to make the position clear, since this is the first time something is being presented under the new zoning. Mr. Alpert stated there is nothing in the By-Law that

allows the Zoning Board of Appeals (ZBA) to [approve the creation of a new nonconformity](#) ~~do that~~ in these nonconforming situations. He noted it is a legal question.

Mr. Owens stated he is opposed to approving this and feels the Planning Board should let the ZBA know that. Mr. Alpert commented on the hard work of the Large House Committee. There is also a question of the legal authority to grant the requested relief without a variance. Mr. Owens stated this is exactly what the Large House zoning was trying to stop. Mr. Jacobs agreed.

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

VOTED: to notify the ZBA the Planning Board opposes approving this request after all the work the Large House Committee did and to also question the legal authority to grant the requested relief without a variance.

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

VOTED: in honor of a colleague [\[Mr. Owens\]](#) who has been a mentor to him and he is thankful for his guidance, to adjourn the meeting at 8:40 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk



Alex M. Bejian, DMD

Orthodontics for the Entire Family

331 Chestnut Street
Needham, MA 02492
781-444-8282



Lee Newman
Director of Planning and Community Development
500 Dedham Ave
Needham, Ma. 02492

6/22/2021

Dear Lee,

I am writing to you on a matter that deeply disturbed me, my colleagues, and friends. It is about the placement of a dental office in the middle of Needham square, namely 50 Chestnut St, formally the "ART Emporium". Unfortunately, I was unaware of the town meeting recently held regarding Klein Orthodontics. I am not an abutter to that retail space so I did not receive any notices. Regardless, as a professional in town for over 30 years, not only should the abutters be notified but all health care professionals in the town should be able to voice their opinions on moving professional medical and dental health offices into retail space. Since we are professionals dealing with healthcare we are somewhat familiar with what it entails to build a practice, the parking involved and the traffic it generates. All health care professionals should be notified and their voices should have been heard.

In any event, I was hoping that the Planning Board, the Zoning Board, Building Department, and the Board of Appeals would stand tall and make the right decision for the town. After all, that's what these boards do in preserving the long history of the town. Needham has been a dry town for decades and now we are inundated with liquor stores. Is this what we want and do we want Needham to go into uncharted waters.?. It is ok to hear the other side of the story but the Board NEEDS to make the right decision and not be swayed by ambiguous terminology or rhetoric in the bylaws. It's your duty to uphold the long standing tradition of the town to keep retail space available and MOST IMPORTANTLY to admit that a mistake was made in the past and should now be corrected. The space that Dr. Klein wants on Chestnut St should not be granted and she should seek office space elsewhere in town. It is the right thing to do and all the members of the board should unify and uphold to what the town needs. Not to what some attorney presents by manipulating the words to get his agenda passed.

Putting a dental office in the center of town is not what the town needs, nor what I have envisioned for the town in the near future. We have spent thousands of dollars



Alex M. Bejian, DMD

331 Chestnut Street
Needham, MA 02492
781-444-8282

beautifying the town square, the crosswalks, the lighting and flagpole only to put a dental office next to the square as opposed to retail shop. By allowing her to come into the center of town, the town has essentially opened the gates and gave a Cart Blanche for anyone to come into any retail space available. As an experienced dentist, once the office is constructed, it is very rare that the practitioner will move to another location. The cost of starting a practice runs about \$100,000 in construction costs so moving is rarely an option. Therefore, 50 Chestnut Street will essentially be a dead area for retail and will most likely remain a dental office for the next 20-30 years. Again, is this what we want???

As I have reiterated in the past, several of my colleagues have resorted to moving to Wellesley because space was not available. Others have moved on the other side of Rte 95 and some of my friends are still on the basement. If they knew that Klein Orthodontics acquired retail space in the center of town, they would be very upset about the decision and wonder why she was granted that space when for years no dental practice was allowed on the first floor of retail space.

Another important issue is the parking situation. The staff, doctor and patients will definitely need parking in order to conduct business. The parking will be in adjacent parking lots, on the streets and elsewhere. Dr. Klein is requesting parking for herself, staff and patients. So do you feel it is fair for patrons who go to Harveys Hardware or the Barbershop or the Learning Express be denied space because Dr. Klein wants her allotted 9 personal spaces. This is an important issue that needs to be addressed and no one seems to be acknowledging this major problem. I have customers from Costas Pizza parking in my parking lot all day that is for our patients but I let it happen, but it not fair to me or my patients. **THIS ALONE SHOULD MAKE ANY RETAIL SPOT UNACCEPTABLE FOR MEDICAL AND DENTAL USE!**

Dr Klein needs to find space for her dental office elsewhere. There are to many issues that are affecting the traffic and parking and taking away great space for a clothing or retail store.

I am in the process of seeking an attorney to appeal this erroneous decision on Dr. Klein's first floor dental practice. Unfortunately many attorneys are on vacation now and the attorney that is knowledgeable with zoning will be available in a few weeks. Despite my appeal, the parking situation will make this space unsuitable for a dental office and there are plenty of spaces around town that Dr. Klein can set up her



Alex M. Bejian, DMD

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practice. Needham has had a history of no medical and dental offices in retail space on the ground floor. Why this was issued is beyond me? Let's do the right thing for Needham. Stand up, be creative and make good decisions to preserve the community for decades to come.

Sincerely,

Alex Bejian

June 29, 2021

Ms. Evelyn Poness, Town Treasurer
Town of Needham
Town Hall
Needham, MA 02492

RE: Major Project Site Plan Review Special Permit
Needham Enterprises, LLC
1688 Central Avenue, Needham, MA
Assessors Plan No. 199 as Parcel 213

Dear Ms. Poness:

Enclosed herewith is a check in the amount of \$14,974.66, payable to "Town of Needham".

Said check was called for by the Planning Board's vote on June 14, 2021 requiring peer review, pursuant to Massachusetts General Laws Chapter 44, Section 53G, and Section 9, "Project Review Fees", of the Adopted Amendment to the Subdivision Regulations and Procedural Rules of the Planning Board, March 12, 2012. The purpose of the check is to cover the cost to the Town of work by Greenman-Pedersen, Inc. (GPI) in connection with a "Scope of Services, dated June 22, 2021, for Engineering Services related to preparing a Peer Review of the traffic impacts associated with the proposed Daycare Facility located at 1688 Central Avenue in the Town of Needham, MA, a copy of which is attached hereto.

Please deposit the above-named funds from Needham Enterprises, Inc. on behalf of the applicant, Needham Enterprises, LLC, to secure the completion of the noted peer review. Should you have any questions regarding this manner, please feel free to contact me directly.

Very truly yours,

NEEDHAM PLANNING BOARD

Lee Newman
Planning Director

Received on June 29, 2021

Evelyn Poness, Town Treasurer

cc: Needham Enterprises, LLC
Needham Enterprises, Inc.
Evans Huber
Planning Board



June 22, 2012

Ms Lee Newman
Director of Planning and Community Development
Needham Department of Public Works
500 Dedham Avenue
Needham, MA 02492

ATTN: Mr. Anthony DelGaizo, PE
Town Engineer

Ms. Lee Newman
Director of Planning and Community Development

SUBJECT: 1688 Central Avenue Peer Review
Proposed Scope of Work

Dear Mr. Hobbs:

As requested, **Greenman-Pedersen, Inc. (GPI)** is pleased to submit the attached Scope of Work for Engineering Services related to preparing a Peer Review of the traffic impacts associated with the proposed Daycare Facility located at 1688 Central Avenue in the Town of Needham, MA. The work is anticipated to include the following:

SCOPE OF SERVICES

As part of the peer review, the CONSULTANT will:

- Verify the validity and accuracy of the analysis conducted by the developer's consultant, Gillon Associates Inc. (GAI) with Town of Needham guidelines and standard engineering practice.
- Identify additional data or analysis required as part of the Traffic Impact Assessment (TIA).
- Provide findings to the Planning Board.
- Assess the adequacy of the proposed mitigation to offset project impacts.
- Provide recommendations to the Planning Board on the need for additional measures to mitigate the impacts of the project on the adjacent roadway network.

The documents to be reviewed include:

- *Traffic Impact Assessment for Child Care Facility, Needham, Massachusetts*; prepared by Gillon Associates; March 2021.
- *Traffic Impact Assessment for Child Care Facility, Needham, Massachusetts*; prepared by Gillon Associates; June 2021.
- *Site Plans: Daycare 1688 Central Avenue, Town of Needham*; prepared by Glossa Engineering, Inc.; Issued June 2, 2021.
- *Town Department Reviews*
- *Public Comment Letters/emails*

The following provides a detailed scope of services to be conducted by the CONSULTANT.

Task 1 – Initial Peer Review

The CONSULTANT will provide the following services in the performance of the proposed traffic peer review:

- Coordinate with the Town to discuss the history of the project, review project materials and request additional materials from the project proponent, if necessary, to complete a comprehensive review.
- Assess the adequacy of the proposed study area and, if necessary, make recommendations for additional study area intersection to be evaluated.
- Assess the appropriateness of the time periods for analysis included within the TIA.
- Review that the study takes into account the effects of CoVID on the traffic analysis and is in compliance with the State's engineering directive on the effects of CoVID on traffic analyses.
- Conduct a field visit to observe existing field conditions, identify areas of existing concern related to traffic operations and access, verify sight distance measurements, and observe pedestrian, bicycle, transit, and vehicular activity.
- Review data collection techniques, methodology and seasonal adjustments / background growth, and compare traffic volumes with any other available counts from MassDOT or the Town of Needham.
- Review vehicle crash data from MassDOT and local police and input for crash rate worksheets.
- Review build-out condition analysis to ensure known planned developments have been factored into the analysis.
- Review trip generation methodology and compare with standard Institute of Transportation Engineers (ITE) data, as well as available empirical data collected at similar facilities.
- Review trip distribution methodology.
- Review the accuracy of the capacity and queue analysis performed by GAI.
- Review the site plan for adequate circulation and access (including emergency vehicles, pedestrians, bicyclists, buses, delivery vehicles, and tractor trailer trucks) and parking maneuvers.
- Evaluate the appropriateness of the location and alignment of the proposed access and egress driveways with respect to sight distances and proximity to other driveways along Central Avenue.
- Review the appropriateness of provisions for pedestrian access and circulation both on and off the site.
- Assess reasonableness of proposed mitigation measures, including Transportation Demand Management (TDM) measures, and provide recommendations on additional measures that may be required to mitigate project impacts or address other congestion, safety, access-related issues.
- Review letters and documents prepared by town staff/officials.
- Review letters/emails from residents.
- Summarize peer review findings and provide recommendations in an initial review draft Memorandum to the Planning Board. A copy of the Memorandum will also be delivered to the Department of Public Works, Town Engineer, Public Safety Officer, the Proponent, and the Proponent's engineer(s).

The scope of services described above will be performed within ten (10) working days of receipt of Notification to Proceed and all materials to be reviewed.

Following dissemination of the draft peer review Memorandum, a one (1) week review period will be provided to allow all parties receiving the draft Memorandum to provide comments or concerns to the CONSULTANT. Following the initial review period, the CONSULTANT will be provided one (1) week to revise the initial review Memorandum to address any comments or concerns raised on the draft Memorandum.

Task 2 – Response to Comments Review

It is anticipated that the Proponent or the Proponent's consultant will prepare at least one Response to Comments letter or memorandum to respond to comments raised by the CONSULTANT. The CONSULTANT will review this supplemental material for accuracy and compliance with the comments provided in the initial peer review. The CONSULTANT will then

provide a final memorandum with recommendations on access/egress, site circulation, and measures required to mitigate the impacts of the proposed development.

The scope of services described above will be performed within two (2) weeks of receipt of all Response to Comments letters or materials to be reviewed.

Depending on the adequacy of the Proponent's response, the CONSULTANT will be available to review additional Response to Comments documents prepared by the Proponent and the Proponent's design team. Should more than one review of Response to Comments materials be required, a commensurate amendment to this contract may be required.

Task 3 – Meetings

Attendance at two (2) staff-level meetings with Town staff as well as attendance at two (2) public hearings (Planning Board or other review board) are included within this Contract.

The CONSULTANT will be available to attend additional meetings with Town staff, the Proponent, and/or the Planning Board, as requested by the Town. Should the Town or Proponent request the CONSULTANT's presence at additional meetings, an Amendment to this Scope and Fee will be required.

FEES:

The following table summarizes the costs and payment method of the tasks described in this Agreement. The schedule begins on the date written authorization to proceed is received. The schedule is also subject to the timely delivery of information to be provided to the CONSULTANT and is exclusive of delays caused by interim reviews.

TASK	Task Hours	TOTAL
1.0 -Peer Review of Traffic Memos	12	\$ 1,933.36
2.0 - Site Visit/Assessment	8	\$ 1,041.04
4.0 - Mitigation Plan/Concepts	10	\$ 1,552.98
5.0 - Draft Report	22	\$ 3,034.46
6.0 - Final Report	14	\$ 1,993.42
7.0 - Meetings and Consultation	20	\$ 5,119.40
TOTAL HOURS	86	\$ 14,674.66
Expenses		\$ 300.00
TOTAL PROJECT DESIGN COST	86	\$ 14,974.66

Should you have any questions, or concerns regarding this matter, please feel free to contact John W. Diaz at (978) 570-2953.

Very truly yours,

GREENMAN – PEDERSEN, INC.



John W. Diaz, P.E.
Vice President/Director of Innovation

FEE PROPOSAL								
Contract ID# TBD	Engineering Services for Roadway Design, Rehabilitation and/or Repair Related Programs and Projects							
Assignment #								
Description	1688 Central Avenue Daycare - Peer Review							
Greenman-Pedersen, Inc. (GPI)								
TASK	Project Director	Senior Engineer	ROW Engineer	Engineer	Assistant Engineer	Survey Tech	Survey Eng	TOTAL HOURS
Direct Cost*	\$ 89.50	\$ 52.50	\$ 45.50	\$ 38.50	\$ 29.00	\$ 34.50	\$ 39.50	
1.0 -Peer Review of Traffic Memos	2	8		2				12
SUBTOTAL	2	8		2	0	0	0	12
2.0 - Site Visit/Assessment		4		4				8
SUBTOTAL	0	4	0	4	0	0	0	8
3.0 - Site Plan Review		4		4				8
SUBTOTAL	0	4	0	4	0	0	0	8
4.0 - Mitigation Plan/Concepts	2	4		4	0	0	0	10
SUBTOTAL	2	4	0	4	0	0	0	10
5.0 - Draft Report	2	8	0	12	0	0	0	22
SUBTOTAL	2	8	0	12	0	0	0	22
6.0 - Final Report	2	4		8				14
SUBTOTAL	2	4	0	8	0	0	0	14
7.0 - Meetings and Consulation	20							20
SUBTOTAL	20	0	0	0	0	0	0	20
TOTAL HOURS	28	28	0	30	0	0	0	86
LABOR COSTS								
* Labor vary by employee. Invoicing will be based on actual Direct Costs Plus Overhead and Fee								
Project Director		28		@			\$ 89.50	\$ 2,506.00
Senior Engineer		28		@			\$ 52.50	\$ 1,470.00
ROW Engineer		0		@			\$ 45.50	\$ -
Engineer		30		@			\$ 38.50	\$ 1,155.00
Assistant Engineer		0		@			\$ 29.00	\$ -
Survey Tech		0		@			\$ 34.50	\$ -
Survey Eng		0		@			\$ 39.50	\$ -
Direct Labor Cost								\$ 5,131.00
Indirect Labor Cost (Overhead)					\$ 5,131.00	x	160%	\$ 8,209.60
Fixed Fee (10%)		10% x (	\$ 5,131.00	+	\$ 8,209.60)			\$ 1,334.06
TOTAL LABOR COST								\$ 14,674.66
DIRECT COSTS (printing, mileage, equip, etc.)								\$ 300.00
DATA COLLECTION (Sub-Consultant)								-
DIRECT EXPENSE SUBTOTAL								\$ 300.00
TOTAL FEE								\$ 14,974.66