

NEEDHAM PLANNING BOARD

Tuesday, January 16, 2024

7:00 p.m.

Charles River Room

Public Services Administration Building, 500 Dedham Avenue

AND

Virtual Meeting using Zoom

Meeting ID: **880 4672 5264**

(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: **880 4672 5264**

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: **880 4672 5264**

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: **880 4672 5264**

Direct Link to meeting: <https://us02web.zoom.us/j/88046725264>

1. ANR Plan – Gordon C. Russel, Petitioner, (Property located at 12 and 18 Brookside Road, Needham, MA).
2. Determination of permitting process - Proposed revision to Major Project Site Plan Special Permit No. 97-12: Four Forty-Four Group, Inc., 444 Hillside Avenue, Petitioner. (Property located at 442 and 444 Hillside Avenue, Needham, MA).
3. Review of Needham Housing Authority Zoning Articles for May 2024 Town Meeting.
4. Review of Solar Energy Systems Zoning Article for May 2024 Town Meeting.
5. Appointment to Charter Review Working Group.
6. Minutes.
7. Report from Planning Director and Board members.
8. Correspondence.

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

LAW OFFICE OF DAVID J. HIMMELBERGER

One Hollis Street, Suite 400
Wellesley, Massachusetts 02482

Fax: (781) 235-8242
Telephone: (781) 237-8180

David J. Himmelberger

Email: david@himmelbergerlaw.com

January 4, 2024

Ms. Lee Newman, Town Planner
Town of Needham
500 Dedham Street
Needham, MA 02492

Re: ANR Plan for Brookside Road

Dear Ms. Newman:

I represent Gordon Russell, GRSR Brookside Road Realty Trust, and 193 Worcester Road Associates, LLC in connection with a revised ANR Plan for 18 and 62 Brookside Road, Needham. You may recall that an ANR Plan was previously approved by the Needham Planning Board on April 5, 2022, and thereafter recorded at the Norfolk County Registry in Plan Book 711, as Plan 73. A copy is attached.

Subsequently, while in the course of designing a new home for 18 Brookside Road, it became apparent that one of the property lines would need to be adjusted to account for required setbacks. Accordingly, a new ANR Plan was submitted for your review. You provided comments in an email to John Glossa, of Glossa Engineering, the ANR survey company, dated December 22, 2023 which has been shared with me. I believe that the attached ANR Plan incorporates all of your requested revisions with the exception of your request for the inclusion of Build Factors for each lot, along with wetland and upland areas for each lot. As was the case in 2022, my client declines to include these items. I am attaching a copy of a similar letter sent by me in 2022 which also addressed these issues.

Please find attached a revised proposed ANR Plan that with the exception of the build factors and upland and wetland areas, is responsive to your emailed comments. However, I continue to believe that the inclusion of build factor calculations for all new proposed building lots, and calculations of upland portions of the two buildable lots shown in plan, Lot 1 and Lot 2, are not required for the consideration and approval of the ANR Plan.

Pursuant to MGL ch 41, s 81P, the Planning Board is required to endorse an ANR Plan "unless such plan shows a subdivision". Endorsement of an ANR Plan may not be refused if each lot shown demonstrates that it possesses the required frontage under the local zoning bylaws. In the instant case, the land is located within the

Single Residence A District, for which frontage of 150 feet is required. As shown in the proposed ANR Plan, 62 Brookside Road has frontage of 200.38 feet, while 18 Brookside Road has frontage of 150 feet. As each of the two proposed Lots 1 and 2 has the requisite frontage, an endorsement of the ANR Plan is appropriate.

The controlling case on this issue is Smalley v Planning Board of Harwich, 10 Mass. App. Ct 599 (1980). In Smalley, the Court held that the Planning Board's judgment under Ch 41, s 81P, "is confined to determining whether a plan shows a subdivision". As both Lot 1 and Lot 2 have the required frontage on a public way, the reconfiguration of the land does not constitute a Subdivision, and therefore endorsement of the ANR Plan is required. In short, frontage is the only pertinent zoning dimension for determining whether a plan depicts a subdivision; and in this case the required 150 feet of frontage for both Lots 1 and 2 is demonstrated.

Mr. Glossa has met with both the Building Commissioner and Town Engineer and they are satisfied with the proposed revised ANR Plan.

I believe the revised proposed ANR Plan now complies with all necessary requirements and is now ready for submittal to the Planning Board. Could you confirm your agreement, and in the event that you disagree, advise as to the elements that you believe are missing?

I thank you for your attention to this matter.

Very truly yours,



David J. Himmelberger

WILDER, SHEA & HIMMELBERGER, LLP

Counselors at Law
One Hollis Street, Suite 400
Wellesley, Massachusetts 02482

Fax (781) 235-8242

Leslie B. Shea
David J. Himmelberger

Telephone (781) 235-3400
Telephone (781) 237-8180

February 13, 2022

Alexandra Clee,
Assistant Town Planner
Town of Needham
500 Dedham Street
Needham, MA 02492

Re: ANR Plan for Brookside Road

Dear Ms. Clee:

I represent Gordon Russell, GRSR Brookside Road Realty Trust, and 193 Worcester Road Associates, LLC in connection with a proposed ANR Plan for 18 and 62 Brookside Road, Needham. Accordingly, your email to Mr. Russell, sent January 28, 2022, which provided your comments regarding the proposed ANR Plan has been shared with me. While I agree with your comments numbered 1 and 4, I believe that comments 2 and 3 are inapplicable to the ANR process.

Please find attached a revised proposed ANR Plan that now provides setbacks from all buildings to current and proposed lot lines, while also including bearings for all parcels affected by the proposed ANR Plan. However, I believe that the inclusion of build factor calculations for all new proposed building lots, and calculations of upland portions of the two buildable lots shown in plan, Lot 1 and Lot 2, are not required for the consideration and approval of the ANR Plan.

Pursuant to MGL ch 41, s 81P, the Planning Board is required to endorse an ANR Plan "unless such plan shows a subdivision". Endorsement of an ANR Plan may not be refused if each lot shown demonstrates that it possesses the required frontage under the local zoning bylaws. In the instant case, the land is located within the Single Residence A District, for which frontage of 150 feet is required. As shown in the proposed ANR Plan, 62 Brookside Road has frontage of 200.38 feet, while 18 Brookside Road has frontage of 150 feet. As each of the two proposed Lots 1 and 2 has the requisite frontage, an endorsement of the ANR Plan is appropriate.

The controlling case on this issue is Smalley v Planning Board of Harwich, 10 Mass. App. Ct 599 (1980). In Smalley, the Court held that the Planning Board's judgment under Ch 41, s 81P, "is confined to determining whether a plan shows a subdivision".

As both Lot 1 and Lot 2 have the required frontage on a public way, the reconfiguration of the land does not constitute a Subdivision, and therefore endorsement of the ANR Plan is required. In short, frontage is the only pertinent zoning dimension for determining whether a plan depicts a subdivision; and in this case the required 150 feet of frontage for both Lots 1 and 2 is demonstrated.

I believe the revised proposed ANR Plan now complies with all necessary requirements and is now ready for submittal to the Planning Board. Could you confirm your agreement, and in the event that you disagree, advise as to the elements that you believe are missing?

I thank you for your attention to this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "David J. Himmelberger", with a long horizontal flourish extending to the right.

David J. Himmelberger

Enclosures

TOWN OF NEEDHAM

MASSACHUSETTS

RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2024 JAN -9 PM 4:57



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.

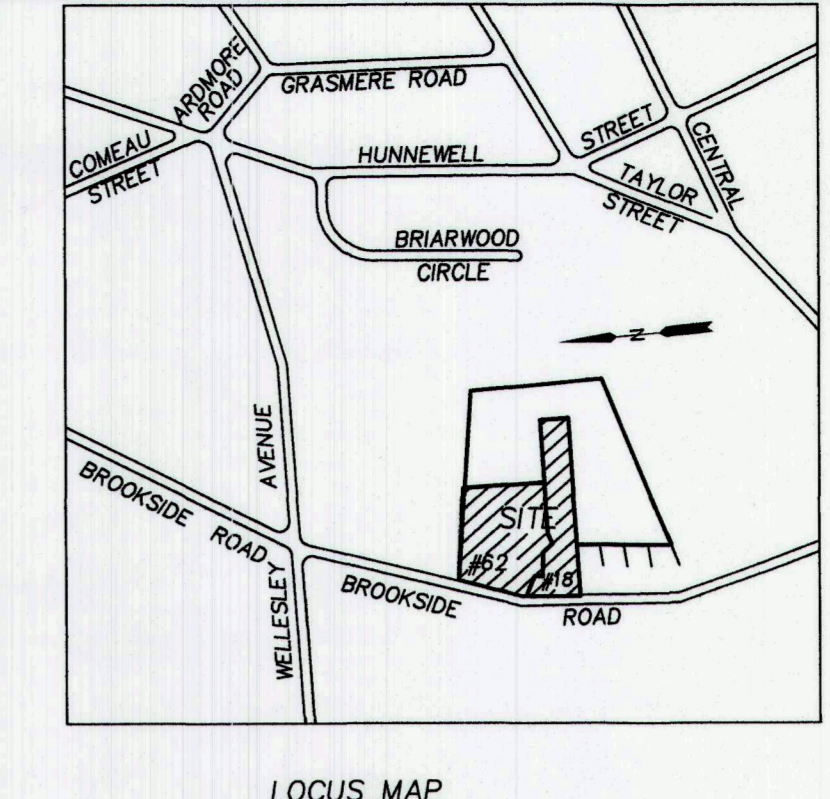
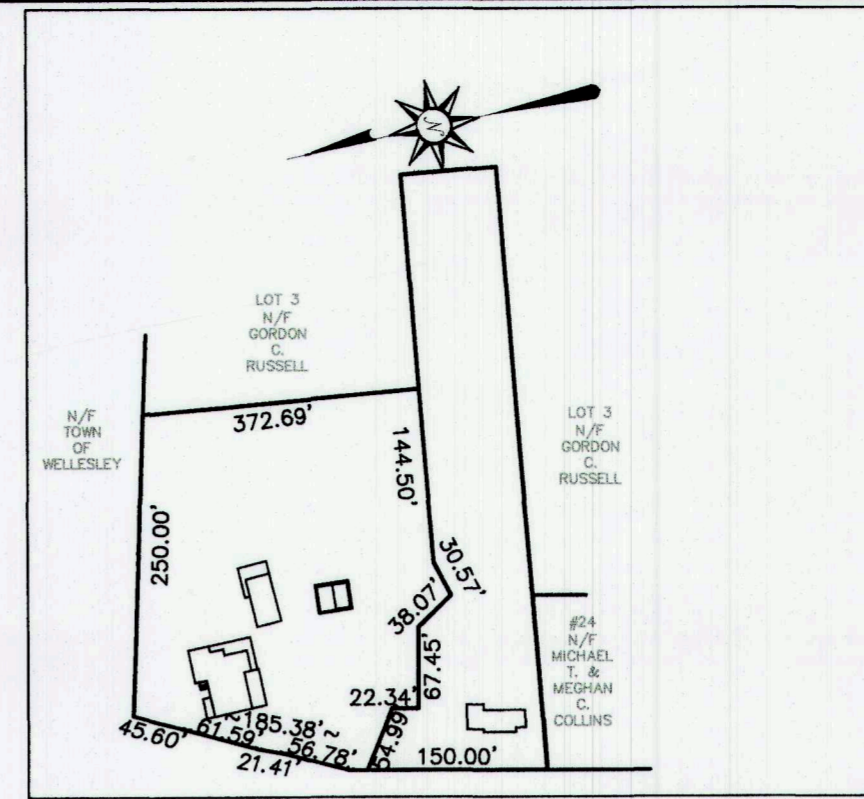
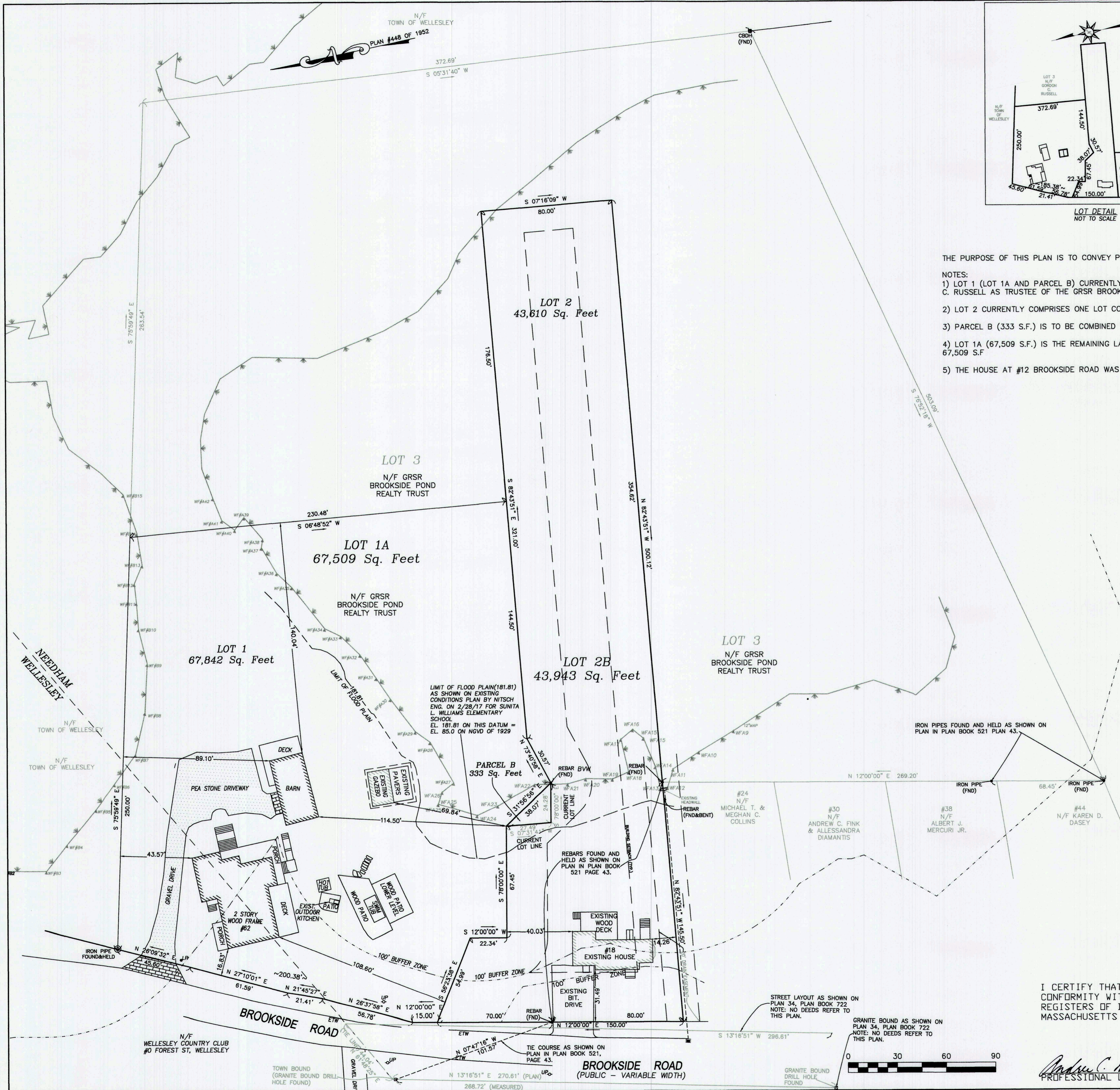
1. Name of Applicant Gordon C. Russell
Address 62 Brookside Road, Wellesley, MA 02481
2. Name of Engineer or Surveyor Glossa Engineering Inc
Address 46 East Street, East Walpole, MA 02032
3. Deed of property recorded in Norfolk Registry,
Book 32651, Page 182
36917
4. Location and description of property #12 and #13³¹⁶ Brookside Road
5. Reasons approval is not required (check as applicable):
 - a) Every lot shown has the area and frontage required by the Zoning By-Law on a way, as defined by Section 81-L, Chapter 41 of the General Laws.
 - b) Land designated Parcel B 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 Gordon C. Russell
Address 62 Brookside Road, Wellesley, MA
By _____ (agent) 02481

Application accepted this 9 day of January 2024
as duly submitted under the rules and regulations of the Planning Board.

By [Signature]



THE PURPOSE OF THIS PLAN IS TO CONVEY PARCEL B FROM LOT 1 TO LOT 2.

NOTES:

- 1) LOT 1 (LOT 1A AND PARCEL B) CURRENTLY COMPRISES ONE LOT CONTAINING 67,842 S.F. OWNED BY GORDON C. RUSSELL AS TRUSTEE OF THE GRSR BROOKSIDE ROAD REALTY TRUST.
- 2) LOT 2 CURRENTLY COMPRISES ONE LOT CONTAINING 43,610 S.F. OWNED BY GORDON C. RUSSELL.
- 3) PARCEL B (333 S.F.) IS TO BE COMBINED WITH LOT 2 (43,610 S.F.) TO FORM LOT 2B CONTAINING 43,943 S.F.
- 4) LOT 1A (67,509 S.F.) IS THE REMAINING LAND OF THE GRSR BROOKSIDE ROAD REALTY TRUST CONTAINING 67,509 S.F.
- 5) THE HOUSE AT #12 BROOKSIDE ROAD WAS RECENTLY DEMOLISHED.

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED

DATE: _____

NEEDHAM PLANNING BOARD
 PLANNING BOARD ENDORSEMENT IS NOT A DETERMINATION AS TO CONFORMANCE WITH ZONING REGULATIONS.

OWNER/APPLICANT
 193 WORCESTER ROAD ASSOCIATES, LLC
 12 BROOKSIDE ROAD
 NEEDHAM, MA 02492

GORDON C. RUSSELL
 18 BROOKSIDE ROAD
 NEEDHAM, MA 02492

GORDON C. RUSSELL, TR.
 62 BROOKSIDE ROAD
 WELLESLEY, MA 02481

ASSESSORS PARCEL
 MAP 113 LOT 27 (12 BROOKSIDE)
 MAP 113 LOT 26 (18 BROOKSIDE)
 MAP 31 LOT 6 (62 BROOKSIDE)

DEED REFERENCE
 BOOK 32651 PAGE 182 (12 BROOKSIDE)
 BOOK 36917 PAGE 316 (18 BROOKSIDE)
 BOOK 27129 PAGE 144 (62 BROOKSIDE)

PLAN REFERENCE
 PAGE 73 IN PLAN BOOK 711
 PAGE 53 IN PLAN BOOK 532
 PAGE 34 IN PLAN BOOK 722

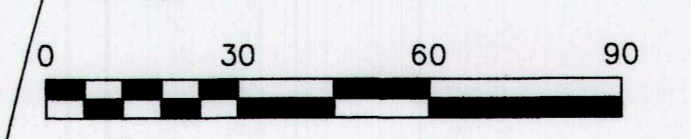
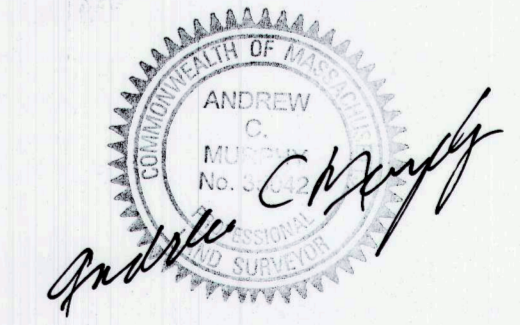
ZONING - SINGLE RESIDENCE A ZONE
ZONING REQUIREMENTS
 MIN. LOT AREA -43,560 SF
 MIN. FRONTAGE -150'
 SETBACKS
 FRONT -30'
 SIDE -25'
 REAR -15'

THE ENTIRE SITE IS LOCATED WITHIN A ZONE II WELLHEAD PROTECTION ZONE

#12, #18 & #62
 BROOKSIDE ROAD
 IN
 NEEDHAM, MA
 SCALE: 1" = 30' DECEMBER 13, 2023
 GLOSSA ENGINEERING INC.
 46 EAST STREET
 EAST WALPOLE, MA
 508-668-4401

I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS

Andrew C. Murphy MA 35042 12/27/23
 PROFESSIONAL LAND SURVEYOR DATE



George Giunta, Jr.
ATTORNEY AT LAW*
281 Chestnut Street
Needham, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520

FAX (781) 449-8475

January 10, 2023

Lee Newman
Planning Director
Town of Needham
1471 Highland Avenue
Needham, MA 02492

Re: Major Project Site Plan Amendment
Four Forty-Four Group, Inc.
444 Hillside Avenue, Needham, MA

Dear Lee,

As you know, I represent Four Forty-Four Group, Inc. (hereinafter, "444 Group") relative to its property known and numbered 444 Hillside Avenue, Needham, MA (the "Premises") and its former adjacent property known as 422 Hillside Avenue (the "Adjacent Property").

The Premises and the Adjacent Property are located in the Industrial Zoning District, on the eastern side of Hillside Avenue. The existing building at the Premises was constructed pursuant to Major Project Site Plan Special Permit Decision, Application #97-12, filed with the Town Clerk on December 29, 1997 (authorizing the use of the property for the commercial storage and repair of motor vehicles, and associated zoning relief), as affected by Amendment dated October 10, 2000 (permitting interior display and sale of vehicles). At the time of the Decision, the Premises consisted of 25,283 square feet and was bounded on the side and rear by the Adjacent Property.

In 2007, the Adjacent Property was placed into common ownership with the Premises. At that time, a portion of the lot, located directly behind the existing building at the Premises, was used for accessory parking in connection with the commercial auto repair at the Premises. It remain in such use today.

In June 2022, the Planning Board endorsed an ANR plan, dividing the Adjacent Property such that the existing building at 422 Hillside Avenue stood on its own, conforming lot, and the balance of the Adjacent Property (which contained the accessory parking referenced above) was combined with the Premises to form a new conforming lot. So now, the accessory parking is a part of the same lot where the automotive repair shop is located.

The 1997 Decision included the following condition (emphasis added):

3.1 That the building, parking areas, driveways, walkways, landscape areas, and other 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.*

While one could argue that the endorsement of the ANR plan, referenced above, qualifies as approval by the Board to modify the site plan approval, same does not directly address the scope and application of the site plan Decision. Therefore, it would appear that further relief, in the nature of an amendment to the Decision is required to conform the Decision to current conditions.

There are two procedural paths to affect such amendment: (1) a full, formal, advertised and noticed hearing, or (2) a de minimis amendment. The 444 Group would prefer to proceed with a de minimis amendment, given that (a) no changes to any existing conditions are proposed or contemplated, (b) the existing conditions were shown on the ARN plan endorsed by the Board in 2022; and (c) no change to the use or operation of the Premises is proposed or contemplated. However, there is an argument that because the amendment would effectively expand the property covered, a full, formal proceeding is appropriate.

Therefore, please accept this letter as a request to discuss the foregoing with the Board at the meeting on January 16, 2024 so as to seek guidance concerning the preferred process. If you have any questions, comments or concerns, please do not hesitate to contact me so that I may be of assistance.

Your courtesy and attention are appreciated.

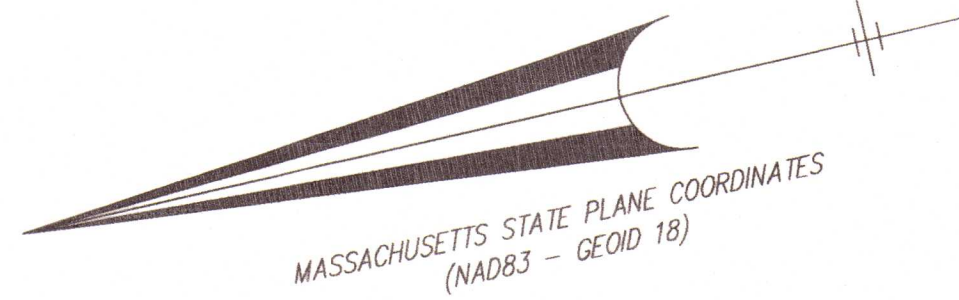
Sincerely,



George Giunta, Jr

LEGEND

- STONE WALL
- METAL GUARDRAIL
- EDGE OF PAVEMENT
- CHAIN LINK FENCE
- STONE RETAINING WALL
- RETAINING WALL
- (R) RECORD
- (C) CALCULATED
- (R/H) RECORD AND HELD
- (M) FIELD MEASURED
- (FD) FOUND
- DHCB DRILL HOLE IN CONCRETE BOUND
- DHSB DRILL HOLE IN STONE BOUND
- I.P.I.P.E. IRON PIPE
- COR. CORNER
- M.T.L. METAL
- BIT. CONG. BITUMINOUS CONCRETE
- DS. DOWN SPOUT
- CLF. CHAIN LINK FENCE



PLAN NO. 26 OF 1994

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
(VAL. MAP V.427/3 DATED 6/30/1915)

WEST STREET

BUCKLEY & SCOTT CO., INC.
DEED BK. 6984, PG. 569
PLAN IN BK. 2262, PG. 56

LOT 6L
23,024± S.F.
0.5286± ACRES

LOT 6M
33,274± S.F.
0.7639± ACRES

HILLSIDE INVESTMENT GROUP, LLC
DEED BK. 25434, PG. 212
PLAN #187 OF 1970

PALESTRA ASSOCIATES LIMITED PARTNERSHIP & FINITUMUS ASSOCIATES LIMITED PARTNERSHIP
DEED BK. 24271, PG. 501
PLAN #244 OF 1945

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

Adam Brock
Paul Wang
Jan S. Miller

DATE: June 21, 2022
NO DETERMINATION AS TO COMPLIANCE WITH ZONING REQUIREMENTS IS MADE OR INTENDED

CJC PROPERTIES LLC
DEED BK. 13833, PG. 243
PLAN #1668 OF 1985

WEST STREET

HILLSIDE AVENUE
(PUBLIC - 50' WIDE)

ASSESSORS:
#422 HILLSIDE AVE PARCEL ID: 199/100.0-0007-0000.0
#422 HILLSIDE AVE PARCEL ID: 199/100.0-0061-0000.0

REFERENCES: DEED BK. 25527, PG. 41
PLAN NO. 721 OF 1992

RECORD OWNER: FOUR FORTY-FOUR GROUP, INC.

ZONING: INDUSTRIAL

NOTES:
1) PROPERTY LINES SHOWN HEREON ARE THE RESULT OF AN ON-THE-GROUND BOUNDARY RETRACEMENT SURVEY BASED ON PLANS AND DEEDS OF RECORD.
2) THIS PLAN IS A RECOMPUTATION AND REDIVISION OF LOTS 6D & 6E ON PLAN NO. 721 OF 1992 INTO LOTS 6L AND 6M SHOWN HEREON. SEE ALSO PLAN NO. 352 OF 1997.

422 & 444
HILLSIDE
AVENUE

Needham, Massachusetts 02494

PREPARED FOR:

GENTLE GIANT MOVING CO., INC.

C/O Ron Zahn
29 Harding Street,
Somerville, Massachusetts 02143

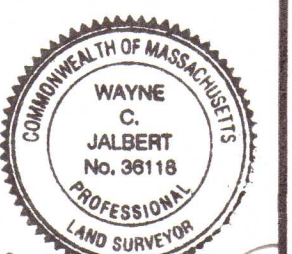
HANCOCK ASSOCIATES

Civil Engineers

Land Surveyors

Wetland Scientists

185 CENTRE STREET, DANVERS, MA 01923
VOICE (978) 777-3050, FAX (978) 774-7816
WWW.HANCOCKASSOCIATES.COM



Wayne C. J. Albert
6/25/22

**ZONING TABLES
INDUSTRIAL ZONING DISTRICT**

422 HILLSIDE AVENUE

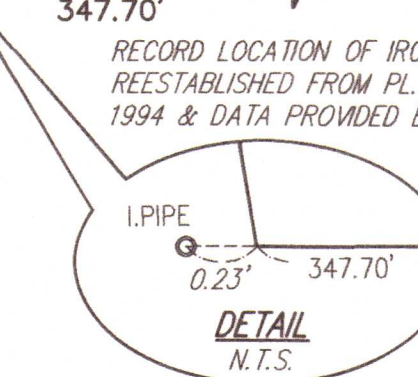
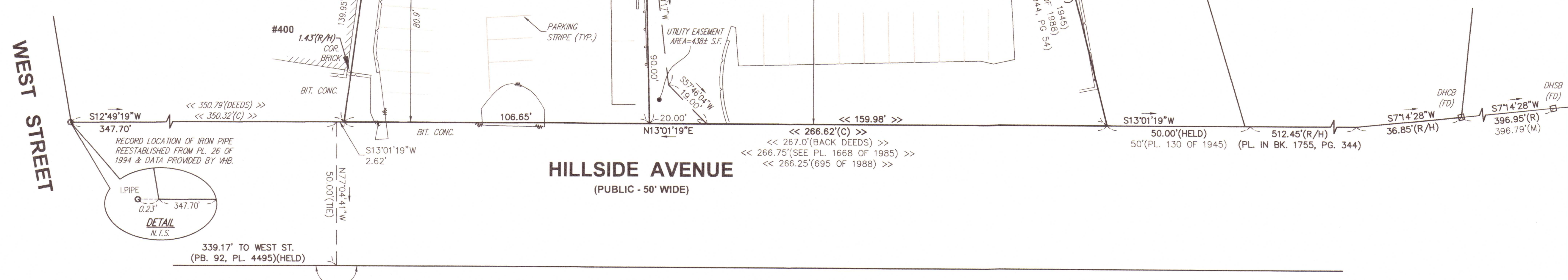
REGULATION	REQUIREMENT	PROPOSED
LOT AREA	10,000 SF	23,024 SF
LOT FRONTAGE	80'	106.65'
FRONT SETBACK	10'	80.9'
SIDE SETBACK	0' / 0'	8.2' / 1.1'
REAR SETBACK	0'	44.9'
HEIGHT LIMITATION	3 STORIES / 40'	1 STORY / 35.8'
LOT COVERAGE	50%	36.6%
PARKING	15*	25

* CALCULATED AS FOLLOWS:
1,344 S.F. OFFICE @ 1/300 = 4.48, ROUNDED UP = 5 SPACES
8,421 S.F. WAREHOUSE @ 1/850 = 9.91, ROUNDED UP = 10 SPACES
5 + 10 = 15 TOTAL SPACES REQUIRED

444 HILLSIDE AVENUE

REGULATION	REQUIREMENT	PROPOSED
LOT AREA	10,000 SF	33,274 SF
LOT FRONTAGE	80'	159.98'
FRONT SETBACK	10'	84.6'
SIDE SETBACK	0' / 0'	1.1' / 17.8'
REAR SETBACK	0'	89.6'
HEIGHT LIMITATION	3 STORIES / 40'	1 STORY / 32.3'
LOT COVERAGE	N/A	22.9%
PARKING	29/42*	73**

* PER MAJOR PROJECT SITE PLAN SPECIAL PERMIT DECISION, APPLICATION #97-12, FILED WITH THE TOWN CLERK ON DECEMBER 29, 1997, 29 PARKING SPACES WERE REQUIRED UNDER THE ZONING BY-LAW, 42 SPACES WERE APPROVED UNDER THE DECISION AS FOLLOWS: 25 SURFACE, 17 UNDERGROUND*.
** 56 SURFACE, 17 UNDERGROUND



I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

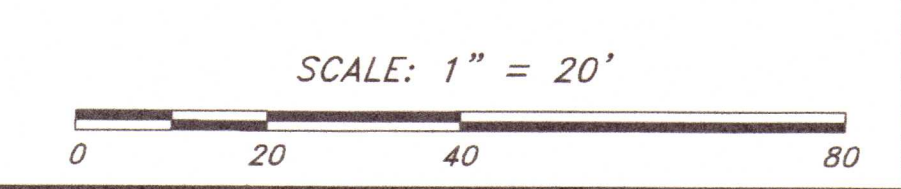
Wayne C. J. Albert
PROFESSIONAL LAND SURVEYOR

NO.	BY	APP	DATE	ISSUE/REVISION DESCRIPTION

DATE: 6/15/22 DRAWN BY: EME
SCALE: 1"=20' CHECK BY: JMS

PLAN OF LAND IN NEEDHAM, MA

PLOT DATE: Jun 15, 2022, 3:13 pm
PATH: F:\Cm 3D Projects\25460-Gentle Giant-Needham\Surv\DWG\ DWG: 25460anr.dwg
LAYOUT: ANR
SHEET: 1 OF 1
PROJECT NO.: 25460





TOWN OF NEEDHAM

MASSACHUSETTS

Room 20, Town Hall
Needham, MA 02192
617-455-7526

PLANNING BOARD

RECEIVED
TOWN CLERK
NEEDHAM

'97 DEC -4 10:37
DECISION

SITE PLAN SPECIAL PERMIT
James P. O'Brien, Trustee of J. P. Realty Trust
Application #97-12

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of James P. O'Brien, Trustee of J. P. Realty Trust, 1110 Great Plain Avenue, Needham, Massachusetts, for property located at 444 Hillside Avenue, Needham, Massachusetts. Said property is shown on Needham Town Assessors Plan No. 100 as Parcel 7, containing 25,283 square feet.

This Decision is in response to an application submitted to the Board on October 17, 1997, 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 3.2.2 of the By-Law, for the commercial storage or repair of motor vehicles; (3) a Special Permit under Section 3.2.2 of the By-Law, for more than one nonresidential use on a lot; and (4) a Special Permit under 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 Requirements), Section 5.1.3(k) (Landscaped Areas), and Section 5.1.3(n) (Bicycle Racks).

The requested Site Plan Special Permit would, if granted, permit the applicant to demolish the existing building located at 444 Hillside Avenue and to construct a new 16,428 square foot building at the subject site. The new building will contain 7,548 square feet on the first floor, a 5,200 square foot basement parking and storage area, and a second floor storage area of 3,680 square feet. The primary use will be a commercial garage for the storage or repair of vehicles and the secondary use will be incidental retail sales of vehicle-related products. A total of 42 parking spaces are provided, of which 25 spaces are above-ground and 17 underground. There are also 8 bays in the service area.

In accordance with the Zoning By-Law, Section 7.4, a Major Project Site Plan Review is required. In accordance with the Zoning By-Law, Section 3.2.2, a Special Permit is required for the commercial storage or repair of motor vehicles in an Industrial District. In accordance with the Zoning By-Law, Section 3.2.2, a Special Permit is required for more than one nonresidential use on a lot. In accordance with the Zoning By-Law, Section 5.1.1.5, a Special Permit is required to waive strict adherence with the requirements of Section 5.1.3, of the Zoning By-Law (Parking Plan and Design Requirements), Section 5.1.3(k) (Landscaped Areas), and Section 5.1.3(n) (Bicycle Racks).

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 Chairman, Devra G. Bailin, on Tuesday, November 18, 1997, at 7:30 p.m., in the Needham Town Hall (Room 20), Needham, Massachusetts. Board members Devra G. Bailin, Paul Killeen, Frank S. Gallelo, Maurice P. Handel, and Robert T. Smart, Jr., were present throughout the 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 I - A Plan entitled "Center Automotive, Hillside Avenue, Needham, Massachusetts, Garage Facility," prepared by Howard L. Millard, Consulting Engineer, 217 Farm Lane, Westwood, MA. This Plan consisted of the following:
- Sheet 1 of 12, Front Elevation, dated June 27, 1997; Sheet 2 of 12, Lower Level Plan, dated June 27, 1997; Sheet 3 of 12, Upper Level Plan, dated June 27, 1997; Sheet 4 of 12, Foundation Plan, dated June 27, 1997; Sheet 5 of 12, Right Elevation, dated June 27, 1997; Sheet 6 of 12, Rear Elevation, dated June 27, 1997; Sheet 7 of 12, Left Elevation, dated June 27, 1997; Sheet 8 of 12, 1st Floor Frame, dated June 27, 1997; Sheet 9 of 12, 1st Flat Roofing, dated June 27, 1997; Sheet 10 of 12, Section Plan, dated June 27, 1997; Sheet 11 of 12, Section Plan, dated June 27, 1997; and Sheet 12 of 12, Roof Framing Plan, dated June 27, 1997.
- EXHIBIT II - A Plan entitled "Site Plan of Land, Needham, Massachusetts," prepared by Needham Survey Associates, Inc., 281 Chestnut Street, Needham, Massachusetts, prepared for J.P. Realty Trust, dated June 27, 1997.
- EXHIBIT III - A Plan entitled "Site Plan of Land, Needham, Massachusetts," prepared by Needham Survey Associates, Inc., 281 Chestnut Street, Needham, Massachusetts, prepared for J.P. Realty Trust, dated June 27, 1997, revised November 21, 1997.
- EXHIBIT IV - A Plan entitled "Landscape Plan, Needham, Massachusetts," prepared by Needham Survey Associates, Inc., 281 Chestnut Street, Needham, Massachusetts, prepared for J.P. Realty Trust, dated August 20, 1997.
- EXHIBIT V - A Plan entitled "Landscape Plan, Needham, Massachusetts," prepared by Needham Survey Associates, Inc., 281 Chestnut Street, Needham, Massachusetts, prepared for J.P. Realty Trust, dated August 20, 1997, revised November 21, 1997.

- EXHIBIT VI - Drainage Calculations entitled "Drainage Analysis for Proposed Building Site Hillside Avenue at Easy Street, Needham, Massachusetts," prepared by James H. Lynn, Registered Professional Engineer, dated September 24, 1997.**
- EXHIBIT VII - Properly executed Application in Support of Application for: (i) Major Project Site Plan Review under Section 7.4 of the By-Law; (ii) Special Permit under Section 3.2.2 of the By-Law, for the commercial storage or repair of motor vehicles; (iii) Special Permit under Section 3.2.2 of the By-Law, for more than one nonresidential use on a lot; and (iv) Special Permit under 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 Requirements), Section 5.1.3(k) (Landscaped Areas), and Section 5.1.3(n) (Bicycle Racks).**
- EXHIBIT VIII - Letter to the Board from Roy A. Cramer, Kassler & Feuer, dated October 10, 1997.**
- EXHIBIT IX - Letter to Lee Newman, Planning Director, from Roy A. Cramer, Kassler & Feuer, dated November 6, 1997.**
- EXHIBIT X - Interdepartmental Communication (IDC) to the Board from Richard P. Merson, Director Public Works Department, dated November 18, 1997; IDC to the Board from Charles Mangine, Fire Inspector, November 7, 1997; IDC to the Board from William G. Slowe, Chief of Police, dated October 22, 1997; and IDC to the Board from the Design Review Board, dated November 5, 1997.**
- EXHIBIT XI - Letter to Devra Bailin, Board Chairman, from Fred H. Sklar, President, Needham Business Association, dated November 7, 1997; Letter to the Board from the Board of Directors of the Needham Heights Neighborhood Association, dated November 13, 1997; Petition in Support of Jim O'Brien's Hillside Avenue Project; and Activities Schedule for Avery Manor.**

Exhibits I, III, V, VI, VII, VIII, and IX 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 located in the Industrial District at 444 Hillside Avenue, Needham, Massachusetts. The property is shown on Needham Town Assessors Plan No. 100, Parcel 7, containing 25,283 square feet. The property is bounded by Hillside Avenue to the west, the MBTA right-of-way to the south, and commercial uses to the north and east. The property is owned by the Petitioner.

- 1.2 The principal use of the subject property will be that of a commercial garage for the storage or repair of motor vehicles. The secondary use of the subject site will be incidental retail sales of vehicle-related products.
- 1.3 The site is presently fully developed and is currently occupied by a 12,083 square-foot building with no on-site parking spaces. The Petitioner proposes to demolish the existing building on the subject premises, and to construct thereon a 16,428 square foot building containing a first floor, second floor, and basement area. The first floor area of the new building will contain 7,548 square feet. It is anticipated that 4,778 square feet of this space will be dedicated to the vehicle service use and 2,760 square feet will be dedicated to the retail/office use. The basement area will contain 5,200 square feet, the bulk of which will be an underground parking area (not open to the public), and a storage/locker room area (not open to the public). The second floor space will contain 3,680 square feet dedicated to parts storage for the commercial garage use. A total of 42 parking spaces are provided, of which 25 spaces are above-ground and 17 underground. There are also 8 bays in the service area.
- 1.4 The intended principal use of the subject property will be that of a commercial garage for the storage or repair of motor vehicles. The intended secondary use of the subject property will be that of incidental retail sales of vehicle-related products. Pursuant to the By-Law Section 5.1.2 the number of off-street parking spaces required for a retail/office use is equal to 1 space per 300 square feet of retail/office area and the number of parking spaces required for an automotive and truck related repair facility is one space for employees and guests per 250 square feet of floor area. The number of parking spaces required for the proposed facility is 29 off-street parking spaces. The total number of parking spaces provided for the facility, as shown on the Plan, is 42. The number of off-street parking spaces, as shown on the Plan, meets Zoning By-Law requirements.
- 1.5 The proposed building conforms to the zoning requirements as to height; lot coverage; front, side, and rear setbacks.
- 1.6 The Petitioner has requested a Special Permit, pursuant to Section 3.2.2 of the By-Law to permit a commercial garage for the storage or repair of motor vehicles in an Industrial District. The Petitioner has requested a Special Permit, pursuant to Section 3.2.2 of the By-Law to permit more than one nonresidential use on the lot.
- 1.7 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 Design Requirements), Section 5.1.3(k) (Landscaped Areas), and Section 5.1.3(n) (Bicycle Racks). The Petitioner has requested relief under 5.1.3(k) (Landscaped Areas). Relief has been requested from the requirement that one-quarter of the landscaped areas be located in the interior of the parking area. Secondly, relief has been requested from the requirement, that ten (10) percent of the parking area be maintained as a landscaped area. Finally, the Petitioner has requested under Section 5.1.3(n) (Bicycle Racks), that the provision that requires a bicycle rack be provided, be waived in its entirety.

- 1.8 The use of the premises proposed by the Petitioner will be compatible with the other existing and allowable uses in the Industrial District. The proposed use is in harmony with the general purposes and intent of the By-Law, and in harmony with the specific purposes and intent of the By-Law regarding the Industrial District. The site is presently developed. The proposed re-development will improve the aesthetics of the area. The addition of landscaping will improve the aesthetics of the Industrial District.
- 1.9 The site is appropriate for the use. The operation of the proposed facility will not create any physical hazard and will not involve any adverse impact on the environment.
- 1.10 Adequate provisions are included in the proposed project for the protection of adjoining properties from drainage through an internal drainage system, visual intrusion, and light overspill, through landscaping and building siting, and proper placement and orientation of lighting fixtures.
- 1.11 The Plan as presented provides for the convenience and safety of the vehicular and pedestrian movement within the site and on adjacent streets. Vehicular and pedestrian movement to, from, and within the site is provided by virtue of placement and design of driveways which provides for proper site distance and acceptable grades for entering and exiting traffic.
- 1.12 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 project includes a surface water drainage system connecting to the municipal system and is designed to accommodate the anticipated runoff. The site is presently fully developed with a commercial building and parking area. The demolition of the building and construction of a new landscaped area in and around the parking lot will improve the surface water drainage. The landscaping of the proposed lot will improve the appearance of the property.
- 1.13 The proposed project will not have any adverse impact upon the Town's sewer, water and drainage systems. Public infrastructure (water, sewer, and storm drains) is adequate to accommodate the proposed project as designed.
- 1.14 The proposed project incorporates the recommendations of the Design Review Board. The Petitioner has appeared before the Design Review Board and obtained approval for the project. All recommendations of the Design Review Board have been incorporated.
- 1.15 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted in the Industrial 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.

- 1.16 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow for more than one nonresidential use on a lot, 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.
- 1.17 Under Section 3.2.2 of the By-Law, a Special Permit may be granted to allow a commercial garage for the storage or repair of motor vehicles in the Industrial District, 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.
- 1.18 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan and Design Requirements), Section 5.1.3(k) (Landscaped Areas) and Section 5.1.3(n) Bicycle Racks, may be granted provided the Board finds, that owing to the special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in said design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction of said design standards, for the proposed development, 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 5-0 to GRANT: (1) the requested Major Project Site Plan Special Permit under Section 7.4 of the By-Law; (2) the requested Special Permit under Section 3.2.2 of the By-Law for more than one nonresidential use on the lot (it is anticipated that the balance of the space in the building will be used for incidental retail sales of vehicle related products and storage use); (3) the requested Special Permit under Section 3.2.2 of the By-Law to operate a commercial garage for the storage or repair of motor vehicles in the Industrial District; and (4) 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 of the By-Law (Parking Plan and Design Requirements), Section 5.1.3(k) (Landscaped Areas) and Section 5.1.3(n) Bicycle Racks, subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

- 2.0 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 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 8 copies of the final Plans as approved for construction by the Board to the Board prior to the issuance of a Building Permit.

- 2.1 The Plan shall be modified to include the requirements set forth below. The modified plans shall be submitted to the Board for approval and endorsement.
 - a. The Plan shall be modified to show final building elevation design details including color and materials.

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 3.27 hereof.
- 3.1 That the building, parking areas, driveways, walkways, landscape areas, and other 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 commercial garage for the storage or repair of motor vehicles, the accessory and incidental retail sales of vehicle-related products, and the associated support facilities, shall contain the dimensions and be located on that portion of the locus substantially as shown on the Plan, as modified by this Decision, and in accordance with applicable dimension requirements of the By-Law.
- 3.3 That the use of the property be limited to that of a commercial garage for the storage or repair of motor vehicles and the accessory and incidental retail sales of vehicle-related products, as shown on the Plan, as modified by this decision. That the term "repair of motor vehicles" as used in this paragraph shall not include body work or painting. That the storage of vehicles at the site shall be limited to those vehicles awaiting immediate repair.
- 3.4 That the hours of operation for the business shall be limited to the hours of 6:00 a.m. to 9:00 p.m. Monday through Saturday and to the hours of 12:00 p.m. to 5:00 p.m. on Sunday.
- 3.5 That all buildings and land constituting the premises shall remain under a single ownership.
- 3.6 That sufficient parking be provided on the locus at all times in accordance with the Plan, as modified by this Decision and that there be no parking of motor vehicles off the locus on any

street at any time. That the parking of cars shall only occur on-site in designated parking spaces and that there be no stacking of parked cars in the front parking lot.

- 3.7 That 42 parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this Decision. A total of 17 of these spaces shall be provided in the parking garage under the building with the remaining 25 spaces to be provided in the surface lot located on the west side of the site. All off-street parking shall comply with the requirements of Section 5.1.3 of the By-Law, except that: (i) the provision that requires that one-quarter of the landscaped areas be located in the interior of the parking area shall be waived in its entirety, as shown on the Plan, as modified by this Decision; (ii) the provision that requires that ten (10) percent of the parking area be maintained as landscaped area be waived in its entirety, as shown on the Plan, as modified by this Decision; and (iii) the provision that requires that bicycle racks be provided be waived in its entirety, as shown on the Plan, as modified by this Decision.
- 3.8 That the landscaping between the front parking lot and Hillside Avenue shall be maintained as shown on the Plan, as modified by this decision.
- 3.9 That all cars towed to the site shall be brought to the back of the site by the bay doors and not to the front lot. That no cars shall be towed to the site after business hours except those requiring repair due to an after hours accident or breakdown. That no sirens nor flashing lights shall be used on tow trucks delivering cars to the site after business hours.
- 3.10 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.
- 3.11 That all new utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.12 That the Petitioner shall secure from the Department of Public Works a sewer connection permit.
- 3.13 That the Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the source(s) of the discharge(s).
- 3.14 That the Petitioner shall connect the sanitary sewer line only to known sources. That all sources which cannot be identified shall be disconnected and properly sealed.
- 3.15 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 number and size of parking spaces are not reduced.

- 3.16 That all deliveries and trash dumpster pick up shall occur only between the hours of 8:00 a.m. and 6:00 p.m. Monday through Saturday, not at all on Sunday and Holidays. That the trash shall be picked up no less than two times per week. That the dumpster shall be screened with plantings and a wooden fence which shall be maintained in good condition.
- 3.17 That all lights shall be shielded and adjusted during the evening hours to prevent any annoyance to the neighbors. That the Petitioner shall adjust its parking lights during the night and early morning. That between the hours of 9:00 p.m. and 10:00 p.m., the Petitioner shall shut off the parking lot lights using the lights off the building to shine down and provide basic security. That the building lights shall be at a low level.
- 3.18 That in constructing and operating the proposed commercial garage for the storage or repair of motor vehicles and the secondary incidental retail sales of vehicle-related products 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.
- 3.19 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.
- 3.20 That all construction staging shall be on-site. No construction parking will be on public or private 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.
- 3.21 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 immediate construction area of the site.
 - 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 Hillside 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 Hillside Avenue clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.

3.22 That no building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:

a. The final elevations and the exterior design details, color, and materials shall have been submitted to and approved by the Design Review Board, and a statement certifying such approval shall have been filed with the Board and the Building Inspector.

b. The final landscape Plan, including lighting and other site features, the location, number, size and type of landscaping, and landscape materials to be installed, shall have been submitted to and approved by the Design Review Board, and a statement certifying such approval shall have been filed with the Board and Building Inspector.

c. A construction management and staging plan shall have been submitted to the Police Chief and Building Inspector for their review and approval.

d. 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.

3.23 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 project was 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, drainage systems, utility installations and sidewalk and curbing improvements on site pavement, 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 sidewalk and curbing improvements on 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 a Certificate of Compliance signed by a registered architect upon completion of construction.

d. That there shall be filed with the Building Inspector a statement by the Board approving the final location, number and type of plant material, final landscape features, parking areas and lighting installation.

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 buildings 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.

- 3.24 In addition to the provision 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.
- 3.25 The building or structures authorized by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted on site until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Inspector.
- 3.26 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, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.27 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 Petitioner 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 Petitioner or owner of the property, 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 Petitioner/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 improvements which are the subject of this petition. All construction to be conducted on 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 With the except of sign location, no approval of any specific sign design 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 December 2, 1999, 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 December 2, 1999. 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 on the Plan, in full force and effect for the benefit of and enforceable by the Town of Needham.

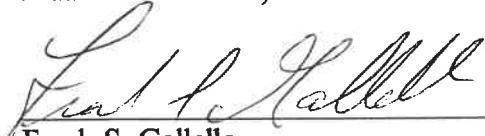
Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within twenty (20) days after filing of this Decision with the Needham Town Clerk.

Witness our hands this 2nd day of December 1997.


NEEDHAM PLANNING BOARD


Devra G. Bailin, Chairman

Maurice P. Handel, Vice Chairman


Frank S. Gallelo


Paul Killeen


Robert T. Smart, Jr.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

December 2, 1997

Then personally appeared before me Devra G. Bailin, one of the members of the Board of the Town of Needham, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Board before me.


Notary Public

My commission expires MY COMMISSION EXPIRES MAY 31, 2002

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the Decision on James P. O'Brien, Trustee of J. P. Realty Trust, 1110 Great Plain Avenue, Needham, Massachusetts, for property located at 444 Hillside Avenue, Needham, Massachusetts, 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
Design Review Board
Board of Selectmen
Engineering
Fire Department
Police Department
Roy Cramer
Parties In Interest**



TOWN OF NEEDHAM
MASSACHUSETTS

RECEIVED
TOWN CLERK
'00 OCT 20 10:25

BK 11-43 PG 562

10-

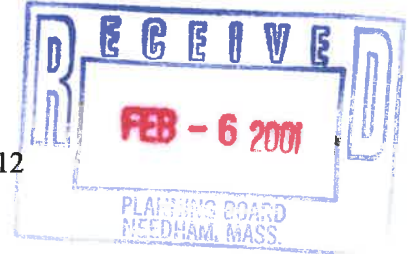
Room 20, Town Hall
Needham, MA 02492
781-455-7526

PLANNING BOARD

AMENDMENT

SITE PLAN SPECIAL PERMIT NO. 97-12

Center Automotive, Inc.
October 10, 2000



FOR TITLE SEE: Book 11674, PAGE 747
& Book 12559, PAGE 594

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Center Automotive, Inc., c/o James P. O'Brien, Trustee of J. P. Realty Trust, 444 Hillside Avenue, Needham, Massachusetts, (hereinafter referred to as the Petitioner) for property located at 444 Hillside Avenue, Needham, Massachusetts. Said property is shown on Needham Town Assessors Plan No. 100 as Parcel 7, containing 25,283 square feet.

This decision is in response to an application submitted to the Board on September 14, 2000, by the Petitioner for an amendment to a Special Permit issued under Sections 7.4, 3.2.2, and 5.1.1.5 of the Needham Zoning By-Law (hereinafter the By-Law). The property is the subject of Site Plan Special Permit No. 97-12, issued to the Petitioner by the Planning Board on December 2, 1997, and filed with the Town Clerk on December 4, 1997.

The purpose of the application is to allow the Petitioner to conduct the incidental and accessory sale, storage and display of used cars, to be displayed not more than two at a time, within that part of the existing building presently designated and used for incidental retail sales. No more than two cars will be displayed or available for sale at any given time on the subject premises, and there will not be any outside storage of vehicles for sale. No alterations are contemplated or proposed for either the site or the existing building.

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 Chairman, Frank S. Gallelo, on Tuesday, October 10, 2000, at 8:30 p.m., in the Needham Town Hall (Room 22), Needham, Massachusetts. Board members Devra G. Bailin, Paul Killeen, Frank S. Gallelo, Maurice P. Handel, and Robert T. Smart, Jr., were present throughout the 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 - Properly executed Application in Support of Application for Site Plan Review under Section 7.4 of the By-Law, for a Special Permit under Section 3.2.2 of the By-Law; and for a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Section 5.1.3 of the By-Law.

RECEIVED AND RECORDED
NORFOLK COUNTY
REGISTRY OF DEEDS
DEDHAM, MA
CERTIFY
Barry T. Hannon
BARRY T. HANNON, REGISTER

121208

00 NOV 22 AM 9:19

- Exhibit 2** - Letter to Lee Newman, Planning Director, from George Giunta, Jr., dated August 30, 2000.
- Exhibit 3** - Interdepartmental Communication (IDC) to the Board from Rick Merson, Director, Public Works Department, dated October 6, 2000; IDC to the Board from James M. Horne, Lieutenant, Needham Police Department, dated September 22, 2000; and IDC to the Board from Donald B.Ingram, Inspector, Needham Fire Department, dated September 22, 2000.
- Exhibit 4** - Petition on Application of Center Automotive, Inc., 444 Hillside Avenue, submitted to the Board by the residents of Rosemary Ridge on October 10, 2000.

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 Petitioner is seeking to amend Site Plan Special Permit No. 97-12 to allow for the incidental and accessory sale, storage, and display of not more than two cars within that part of the existing building presently designated and used for incidental retail sales. No more than two cars will be displayed or available for sale at any given time on the subject premises, and there will not be any outside storage of vehicles for sale. No alterations are contemplated or proposed for either the site or the existing building.
- 1.2 From time to time, the Petitioner comes in possession of used cars that it is able to repair and sell. Typically, these cars come from customers who are unwilling or unable to afford the cost of repairs. The Petitioner proposes to repair these cars at cost and sell them for a profit.
- 1.3 It is anticipated that one used car will be displayed most of the time, with a second car displayed from time to time on an occasional basis. In addition, sales are anticipated to happen infrequently, also, on an occasional basis. The vast majority of all sales are anticipated to be to existing customers.
- 1.4 The proposed limited, incidental sale and display of not more than two used vehicles at any one time, wholly within the existing showroom area, is not anticipated to affect the premises or impact the current existing automotive storage and repair operation.
- 1.5 The Board finds that all of its findings and conclusions contained in Site Plan Special Permit Decision No. 97-12, issued to the Petitioner by the Planning Board on December 2, 1997, are applicable to this amendment, except as specifically set forth in this amendment.

THEREFORE, the Board voted 5-0 to GRANT the requested amendment to Major Project Site Plan Special Permit No. 97-12 under Section 7.4 of the Needham Zoning By-Law, subject to and with the benefit of the following conditions and limitations.

CONDITIONS

- 2.0 All conditions set forth in Site Plan Special Permit Decision No. 97-12, issued to the Petitioner by the Planning Board on December 2, 1997, and filed with the Town Clerk on December 4, 1997, remain in full force and effect, with the exception of the following:

1) The permitted use of the property shall be expanded to include the accessory and incidental sale of used cars that are owned by the Petitioner, to be displayed not more than two at a time, within that part of the existing building presently designated and used for incidental retail sales, subject to the following limitations:

a) No more than two used cars shall be displayed or available for sale at any given time on the subject premises.

b) The display of used cars for sale shall be limited to that part of the existing building presently designated and used for incidental retail sales.

c) All used cars available for sale shall be owned by the Petitioner.

d) There shall not be any outdoor storage of vehicles available for sale, vehicles awaiting preparation for sale, or vehicles undergoing preparation for sale on the subject premises.

e) No signs associated with this use shall be permitted on the subject premises or on the windows of any building or structure.

The provisions of this Special Permit amendment shall be binding upon every owner or owners 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 in full force and effect for the benefit of and enforceable by the Town of Needham. A copy of this amendment shall be recorded in the Norfolk Registry of Deeds with a copy of the recorded document delivered to the Planning Board.

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

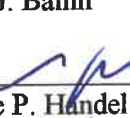
Witness our hands this 10th day of October, 2000.

NEEDHAM PLANNING BOARD

Frank S. Gallelo, Chairman




Devra G. Bailin



Maurice P. Handel



Paul Killeen



Robert T. Smart, Jr.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

October 10, 2000

Then personally appeared before me Paul Killeen, one of the members of the Board of the Town of Needham, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Board before me.

Theodora K. Eaton
Notary Public
My commission expires MY COMMISSION EXPIRES MAY 11 2002

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the decision of Center Automotive, Inc., c/o James P. O'Brien, Trustee of J. P. Realty Trust, 444 Hillside Avenue, Needham, Massachusetts, has passed, and there have been no appeals made to this office. (All Judicial Appeals taken from this decision have been dismissed.)

November 21, 2000
Date

Theodora K. Eaton
Theodora K. Eaton, Town Clerk

Copy sent to:

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

Proposed Affordable Housing District Article 1/3/2412/12/23

ARTICLE ____: AMEND ZONING BY-LAW – AFFORDABLE HOUSING DISTRICT

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

- (a) In Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Residential:

“AHD – Affordable Housing District”

- (b) In Section 3, Use Regulations, by inserting a new Subsection 3.16, Affordable Housing District, to read as follows:

3.16 Affordable Housing District

3.16.1 Purpose of District

The purpose of the Affordable Housing District (hereinafter referred to as AHD) is to promote the health, safety, and general welfare of the community by encouraging the establishment of affordable housing units, while minimizing potential adverse impacts upon nearby residential and other properties.

3.16.2 Scope of Authority

The regulations of the Affordable Housing District shall govern all new construction, reconstruction, or expansion of new or existing buildings, and new or expanded uses, ~~regardless of whether the requirements of Section 3.16 are more or less restrictive than those of the underlying District or Districts of which the Affordable Housing District was formerly a part.~~ Provisions of Section 3.16 shall supersede those of Section 3.2 (Schedule of Use Regulations), Section 4.1.5 (Minimum Required Lot Width), Sections 4.2 through ~~4.104.11~~ (Dimensional Regulations) and Section 5.1.2 (Required Parking), except as otherwise specifically provided herein. The Planning Board shall be the permitting authority for any multi-family development in the AHD.

3.16.3 Definitions

For the purposes of this section and the Needham Zoning By-Law, the following words and phrases shall have the following meanings:

- a. AHD Project – a multi-family housing development of affordable housing units, as defined in Section 1.3 of this By-Law.
- b. Multi-family dwellings – buildings containing three or more dwelling units.

c. Multi-family housing- a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

e.d. Site Plan Review – the Site Plan Review process as provided in Section 7.4 that an applicant must obtain for any AHD project.

Formatted: Indent: Left: 0.5", No bullets or

Formatted: Indent: Left: 0.25"

3.16.4 Allowed Uses

The following uses may be constructed, maintained, and operated by right:

- a. AHD Projects, after completion of Site Plan Review as provided in Section 7.4.
- b. Accessory buildings and uses to the use allowed by right.

3.16.5 Multiple Buildings in the Affordable Housing District

More than one building may be located on a lot in the AHD as a matter of right, provided that each building and its uses complies with the requirements of Section 3.16 of this By-Law.

3.16.6 Dimensional Regulations for AHD Projects in the Affordable Housing District

- a. Minimum Lot Area (Sq. Ft.): 20,000 SF
- b. Minimum Lot Frontage (Ft.): 150 FT
- c. Minimum Front Setback¹ (Ft.): 40 FT
- d. Minimum Side Setback² (Ft.): 25 FT
- e. Minimum Rear Setback³ (Ft.): 25 FT
- f. Maximum Floor Area Ratio: .5
- g. Maximum Dwelling Units Per Acre: 25
- h. Maximum Lot Coverage: 20%
- i. Maximum Height⁴: 58 FT

¹ The front setback shall be a landscaped, vegetative buffer area, except that driveway openings, sidewalks, walkways and screened mechanical equipment may be located in the buffer area. Additionally, parking areas may be located in the buffer area, but must be set back at least 10 feet from the front lot line, which setback shall provide a landscaped buffer.

² Parking areas must be set back at least 5 feet from a side lot line.

³ Parking areas must be set back at least 5 feet from a rear lot line.

- j. Maximum Number of Stories: 4

3.16.7 Parking Requirements

- a. Notwithstanding anything in the By-Law to the contrary, for AHD Projects in the Affordable Housing District, the off-street parking requirement shall be .5 parking spaces per dwelling unit.
- b. For AHD Projects in the Affordable Housing District, the requirements of By-Law Section 5.1.3, Parking Plan and Design Requirements, shall apply.

3.16.8 Site plan review

- a. Site plan review under Section 7.4 of the By-Law shall be completed by the Planning Board for any AHD Project prior to the filing of an application for a building permit.
- b. For AHD Projects the site plan review filing requirements shall be those set forth in the By-Law for Major Projects as defined in Section 7.4.2.
- c. The procedure for the conduct of site plan review for an AHD project shall be as set forth in Section 7.4.4 of the By-Law.
- d. In conducting site plan review of an AHD project, the Planning Board shall consider the review criteria set forth in Section 7.4.6 of the By-Law.

- (c) Amend Section 7.4 Site Plan Review

Make the following changes to Section 7.4.2 Definitions:

Under MAJOR PROJECT: Add a new paragraph after the paragraph defining MAJOR PROJECT:

“In the Affordable Housing District, a MAJOR PROJECT shall be defined as any construction project which involves the construction of 10,000 or more square feet of gross floor area; or increase in gross floor area by 5,000 or more square feet; or any project which results in

⁴ Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilation or air conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all such structures, except roof-mounted solar energy systems, on the building does not exceed 25 percent, and all such structures are set back from the roof edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.

the creation of 25 or more off-street parking spaces; or any project that results in any new curb-or driveway-cut.”

Under MINOR PROJECT, Add a new paragraph after the paragraph defining MINOR PROJECT:

“In the Affordable Housing District, a MINOR PROJECT shall be defined as any construction project which involves the construction of more than 5,000 but less than 10,000 square feet gross floor area; or an increase in gross floor area such that the total gross floor area after the increase is 5,000 or more square feet – and the project cannot be defined as a MAJOR PROJECT.”

Or take any other action relative thereto.

INSERTED BY: Planning Board
FINANCE COMMITTEE RECOMMENDS THAT:

Proposed Affordable Housing District Article 1/3/24

ARTICLE ____: AMEND ZONING BY-LAW – AFFORDABLE HOUSING DISTRICT

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

- (a) In Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Residential:

“AHD – Affordable Housing District”

- (b) In Section 3, Use Regulations, by inserting a new Subsection 3.16, Affordable Housing District, to read as follows:

“3.16 Affordable Housing District

3.16.1 Purpose of District

The purpose of the Affordable Housing District (hereinafter referred to as AHD) is to promote the health, safety, and general welfare of the community by encouraging the establishment of affordable housing units, while minimizing potential adverse impacts upon nearby residential and other properties.

3.16.2 Scope of Authority

The regulations of the Affordable Housing District shall govern all new construction, reconstruction, or expansion of new or existing buildings, and new or expanded uses. Provisions of Section 3.16 shall supersede those of Section 3.2 (Schedule of Use Regulations), Section 4.1.5 (Minimum Required Lot Width), Sections 4.2 through 4.11 (Dimensional Regulations) and Section 5.1.2 (Required Parking), except as otherwise specifically provided herein. The Planning Board shall be the permitting authority for any multi-family development in the AHD.

3.16.3 Definitions

For the purposes of this section and the Needham Zoning By-Law, the following words and phrases shall have the following meanings:

- a. AHD Project – a multi-family housing development of affordable housing units, as defined in Section 1.3 of this By-Law.
- b. Multi-family dwellings – buildings containing three or more dwelling units.
- c. Multi-family housing- a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

- d. Site Plan Review – the Site Plan Review process as provided in Section 7.4 that an applicant must obtain for any AHD project.

3.16.4 Allowed Uses

The following uses may be constructed, maintained, and operated by right:

- a. AHD Projects, after completion of Site Plan Review as provided in Section 7.4.
- b. Accessory buildings and uses to the use allowed by right.

3.16.5 Multiple Buildings in the Affordable Housing District

More than one building may be located on a lot in the AHD as a matter of right, provided that each building and its uses complies with the requirements of Section 3.16 of this By-Law.

3.16.6 Dimensional Regulations for AHD Projects in the Affordable Housing District

- a. Minimum Lot Area (Sq. Ft.): 20,000 SF
- b. Minimum Lot Frontage (Ft.): 150 FT
- c. Minimum Front Setback¹ (Ft.): 40 FT
- d. Minimum Side Setback² (Ft.): 25 FT
- e. Minimum Rear Setback³ (Ft.): 25 FT
- f. Maximum Floor Area Ratio: .5
- g. Maximum Dwelling Units Per Acre: 25
- h. Maximum Lot Coverage: 20%
- i. Maximum Height⁴: 58 FT

¹ The front setback shall be a landscaped, vegetative buffer area, except that driveway openings, sidewalks, walkways and screened mechanical equipment may be located in the buffer area. Additionally, parking areas may be located in the buffer area, but must be set back at least 10 feet from the front lot line, which setback shall provide a landscaped buffer.

² Parking areas must be set back at least 5 feet from a side lot line.

³ Parking areas must be set back at least 5 feet from a rear lot line.

⁴ Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilation or air conditioning equipment, solar or photovoltaic panels, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all such structures, except roof-mounted solar energy systems, on the building does not exceed 25 percent, and all such structures are set back from the roof

- j. Maximum Number of Stories: 4

3.16.7 Parking Requirements

- a. Notwithstanding anything in the By-Law to the contrary, for AHD Projects in the Affordable Housing District, the off-street parking requirement shall be .5 parking spaces per dwelling unit.
- b. For AHD Projects in the Affordable Housing District, the requirements of By-Law Section 5.1.3, Parking Plan and Design Requirements, shall apply.

3.16.8 Site plan review

- a. Site plan review under Section 7.4 of the By-Law shall be completed by the Planning Board for any AHD Project prior to the filing of an application for a building permit.
- b. For AHD Projects the site plan review filing requirements shall be those set forth in the By-Law for Major Projects as defined in Section 7.4.2.
- c. The procedure for the conduct of site plan review for an AHD project shall be as set forth in Section 7.4.4 of the By-Law.
- d. In conducting site plan review of an AHD project, the Planning Board shall consider the review criteria set forth in Section 7.4.6 of the By-Law.

(c) Amend Section 7.4 Site Plan Review

Make the following changes to Section 7.4.2 Definitions:

Under MAJOR PROJECT: Add a new paragraph after the paragraph defining MAJOR PROJECT:

“In the Affordable Housing District, a MAJOR PROJECT shall be defined as any construction project which involves the construction of 10,000 or more square feet of gross floor area; or increase in gross floor area by 5,000 or more square feet; or any project which results in the creation of 25 or more off-street parking spaces; or any project that results in any new curb- or driveway-cut.”

edge by a distance no less than their height. The Planning Board may require screening for such structures as it deems necessary. Notwithstanding the above height limitations, cornices and parapets may exceed the maximum building height provided they do not extend more than 5 feet above the highest point of the roof.

Under MINOR PROJECT, Add a new paragraph after the paragraph defining MINOR PROJECT:

“In the Affordable Housing District, a MINOR PROJECT shall be defined as any construction project which involves the construction of more than 5,000 but less than 10,000 square feet gross floor area; or an increase in gross floor area such that the total gross floor area after the increase is 5,000 or more square feet – and the project cannot be defined as a MAJOR PROJECT.”

Or take any other action relative thereto.

INSERTED BY: Planning Board
FINANCE COMMITTEE RECOMMENDS THAT:

ARTICLE 3: AMEND ZONING BY-LAW – MAP CHANGE FOR AFFORDABLE HOUSING DISTRICT

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

Place in the Affordable Housing District all that land now zoned Single Residence B and General Residence lying east of Linden Street, comprising parcels 23 and 24, on Assessors Map No. 133, parcel 41 on Assessors Map No. 134, and parcel 13 on Assessors Plan No. 45. Said land is bounded and described as follows:

Beginning at a concrete bound at the northwesterly corner of the property, on the easterly side of Linden Street; Thence, S 83° 26' 20" E for a distance of 107.02 feet to an iron rod; Thence, S 82° 15' 50" E for a distance of 87.89 feet to a concrete bound; Thence, S 08° 56' 11" W for a distance of 328.80 feet to a point; Thence, S 42° 44' 39" E for a distance of 159.58 feet to a point; Thence, S 23° 11' 00" W for a distance of 275.88 feet to a point; Thence, S 14° 57' 44" W for a distance of 199.48 feet to a point; Thence, S 86° 04' 45" E for a distance of 59.86 feet to a point; Thence, S 88° 37' 00" E for a distance of 37.49 feet to a point; Thence, S 86° 19' 44" E for a distance of 140.96 feet to a point; Thence, S 86° 19' 44" E for a distance of 26.25 feet to a point; Thence, along a curve turning to the right, having a radius of 2817.93 feet, a distance of 716.25 feet to a point; Thence, S 37° 38' 40" W for a distance of 530.86 feet to a point; Thence, N 52° 24' 02" W for a distance of 175.47 feet to a point; Thence, N 74° 08' 46" W for a distance of 39.96 feet to a point; Thence, N 21° 18' 16" E for a distance of 70.00 feet to a point; Thence, N 72° 56' 42" E for a distance of 165.00 feet to a point; Thence, N 59° 35' 49" E for a distance of 116.66 feet to a point; Thence, N 40° 49' 41" E for a distance of 118.66 feet to a point; Thence, N 21° 56' 08" E for a distance of 118.67 feet to a point; Thence, N 02° 41' 11" E for a distance of 122.65 feet to a point; Thence, N 09° 25' 32" W for a distance of 271.23 feet to a point; Thence, N 43° 37' 54" E for a distance of 103.44 feet to a point; Thence, N 20° 01' 11" E for a distance of 112.07 feet to a point; Thence, N 86° 04' 45" W for a distance of 22.72 feet to a point; Thence, N 78° 30' 10" W for a distance of 108.86 feet to a point; Thence, N 10° 27' 40" E for a distance of 823.79 feet to a point; Thence N 08° 57' 40" E a distance of 71.55 feet to the point of beginning.

Said parcel contains four hundred seventy-nine thousand two hundred fifty-four square feet more or less (479,254± S.F.)

Or take any other action relative thereto.

ARTICLE ____: AUTHORIZE SELECT BOARD TO REMOVE RESTRICTIONS

To see if the Town will vote to authorize the Select Board to execute and record such corrective deeds, instruments, releases or other documents as it deems necessary to clear the title to the land in the Affordable Housing District, as described in Article ____ of the 2024 Annual Town Meeting Warrant, of recorded ~~ancient or outdated~~ restrictions and limitations on use, density, and dimension which could limit future development of affordable multi-family projects in that District; to update statutory references applicable to affordable housing units in that District, to protect pre-existing uses and structures on said land, and to take any other action relative thereto.

The recorded restriction and limitations on use, density and development which could limit future development of affordable multi-family projects in the District include, but are not limited to:

Deed from Town of Needham to Needham Housing Authority, dated October 29, 1957, Norfolk Deeds Book 3600, Page 519, with Special Town Meeting Vote of October 21, 1957 attached.

Deed from Town of Needham to Needham Housing Authority, dated December 20, 1960, with Special Town Meeting Vote of November 14, 1960 attached, Norfolk Deeds Book 3871, Page 27.

Board of Appeals Notice of Variance, dated June 13, 1961, Norfolk Deeds Book 3910, Page 427. (Board of Appeals Variance, dated June 6, 1961, was not recorded)

Deed from Town of Needham to Needham Housing Authority, dated May 9, 1967, Norfolk Deeds Book 4426, Page 484.

Board of Appeals Notice of Variance, dated March 19, 1970, Norfolk Deeds Book 4661, Page 107 (Board of Appeals Variance, dated February 24, 1970, was not recorded).

INSERTED BY: Select Board
FINANCE COMMITTEE RECOMMENDS THAT:

Non-Zoning Article 1 3 24 DRAFT

ARTICLE ____: AUTHORIZE SELECT BOARD TO REMOVE RESTRICTIONS

To see if the Town will vote to authorize the Select Board to execute and record such corrective deeds, instruments, releases or other documents as it deems necessary to clear the title to the land in the Affordable Housing District, as described in Article ____ of the 2024 Annual Town Meeting Warrant, of recorded restrictions and limitations on use, density, and dimension which could limit future development of affordable multi-family projects in that District; to update statutory references applicable to affordable housing units in that District, to protect pre-existing uses and structures on said land, and to take any other action relative thereto.

The recorded restriction and limitations on use, density and development which could limit future development of affordable multi-family projects in the District include, but are not limited to:

Deed from Town of Needham to Needham Housing Authority, dated October 29, 1957, Norfolk Deeds Book 3600, Page 519, with Special Town Meeting Vote of October 21, 1957 attached.

Deed from Town of Needham to Needham Housing Authority, dated December 20, 1960, with Special Town Meeting Vote of November 14, 1960 attached, Norfolk Deeds Book 3871, Page 27.

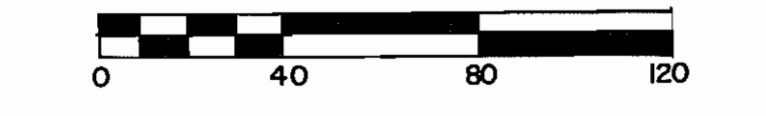
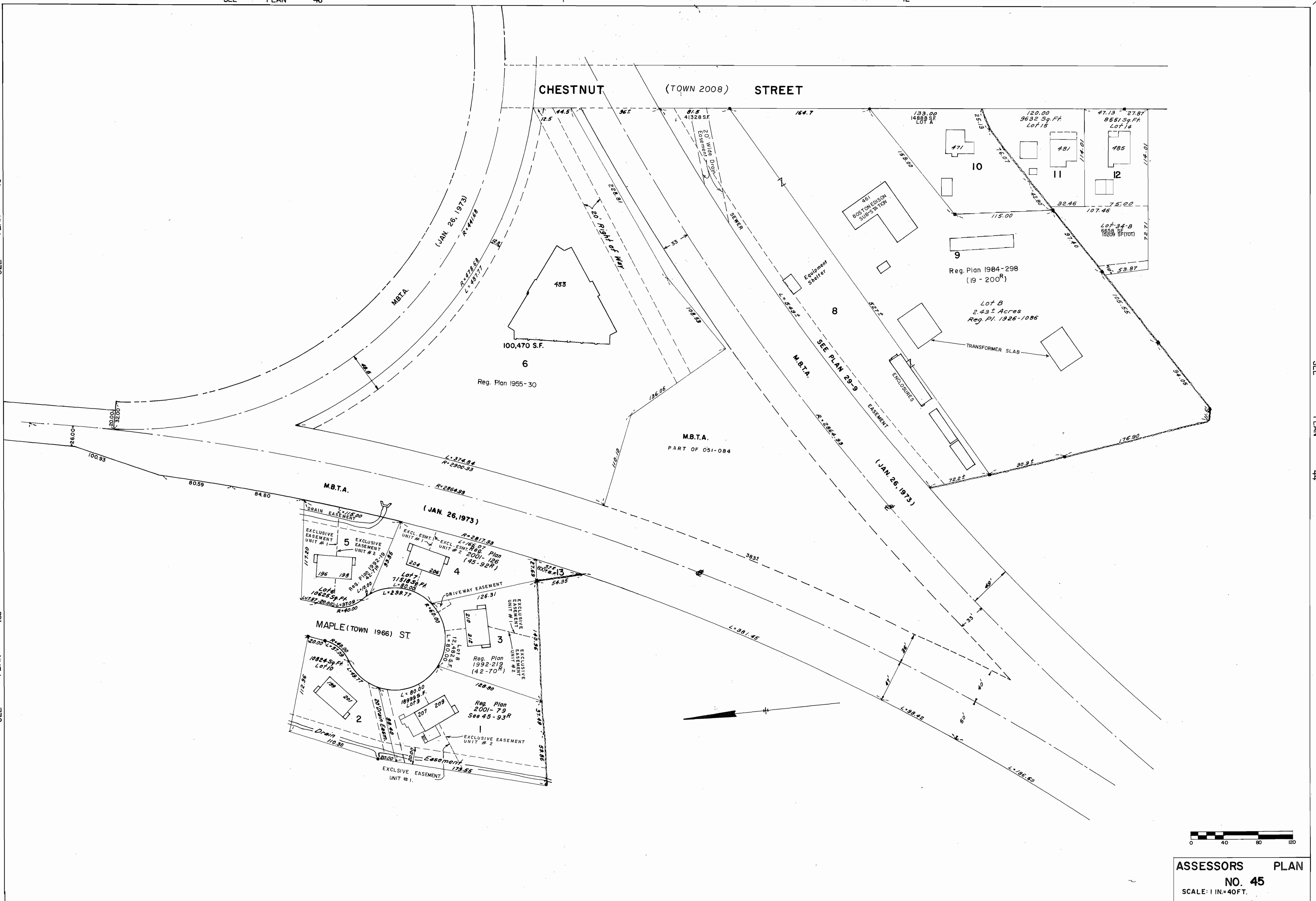
Board of Appeals Notice of Variance, dated June 13, 1961, Norfolk Deeds Book 3910, Page 427. (Board of Appeals Variance, dated June 6, 1961, was not recorded)

Deed from Town of Needham to Needham Housing Authority, dated May 9, 1967, Norfolk Deeds Book 4426, Page 484.

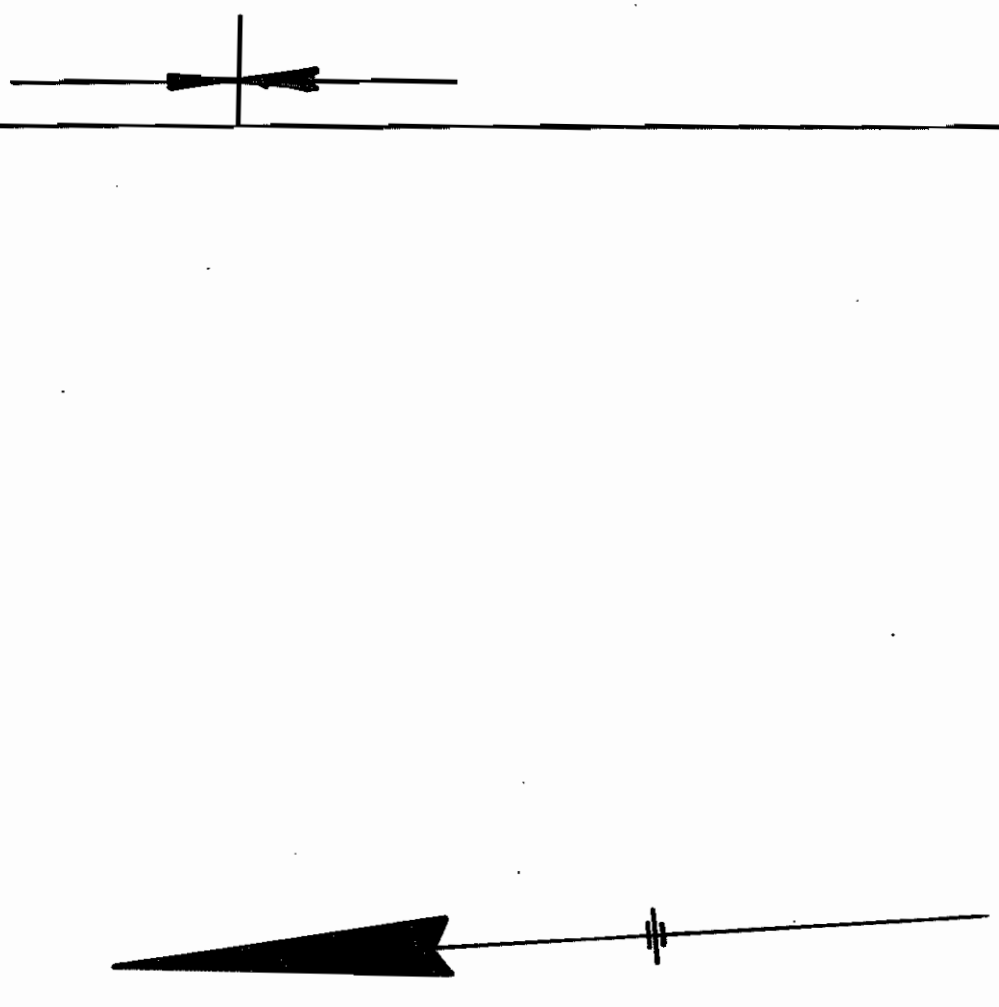
Board of Appeals Notice of Variance, dated March 19, 1970, Norfolk Deeds Book 4661, Page 107 (Board of Appeals Variance, dated February 24, 1970, was not recorded).

INSERTED BY: Select Board

FINANCE COMMITTEE RECOMMENDS THAT:



ASSESSORS PLAN
 NO. 45
 SCALE: 1 IN. = 40 FT.



SEE PLAN 133

SEE PLAN 44

SEE PLAN 303



M.B.T.A. (Jan 1973)
L=381.45

PART LOT D
5.76 ACRES
NEEDHAM HOUSING AUTHORITY

LAND SOUTH OF STONE WALL G.I. VILLAGE &
LOTS A & D REGISTERED AS L.D. CT CASES
4382-A & 4788-A NO LOT PLAN RECORDED
WITH LAND COURT LOT DISTANCES APPROX-
IMATE ONLY.

41
6.89 ACRES (TOT.)

M.B.T.A. (Jan 1973)
L=160.00

ASSESSORS PLAN NO. 134
SCALE: 1 IN. = 40 FT.
A. L. DEL GAIZO, P.E. TOWN ENGINEER

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

DATE: _____

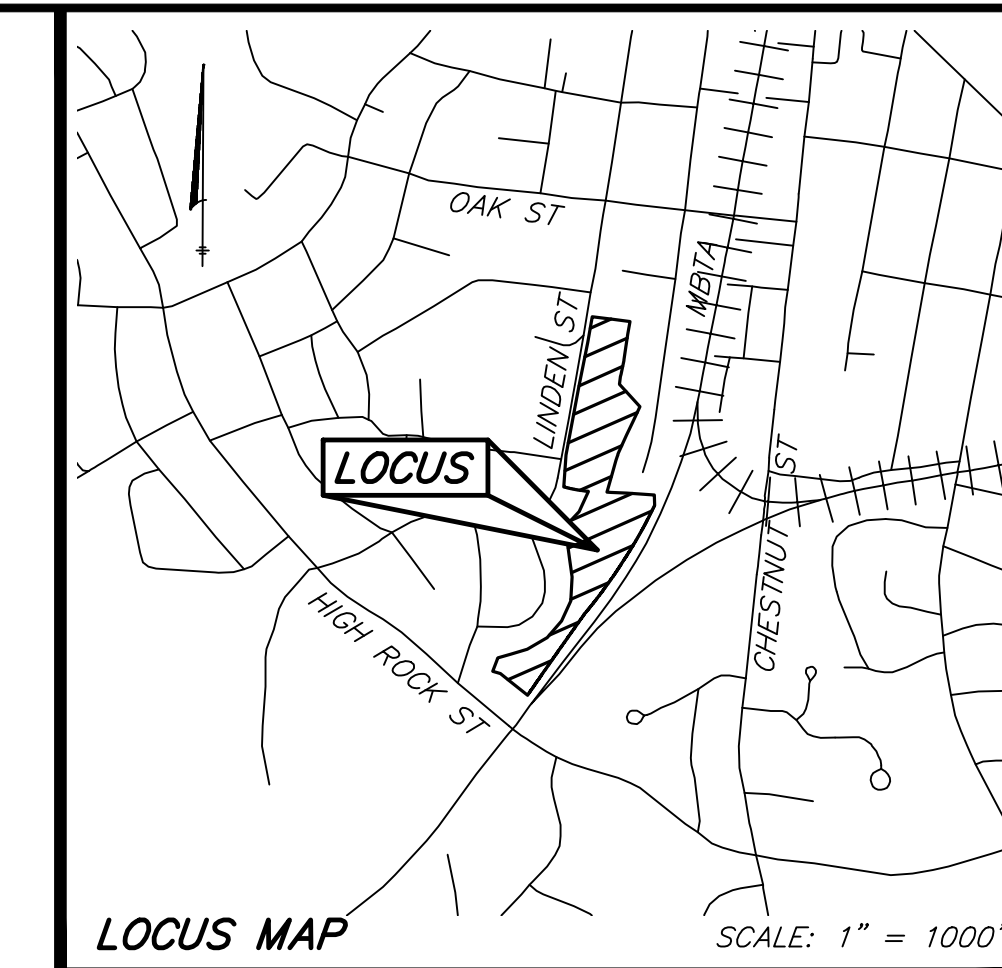
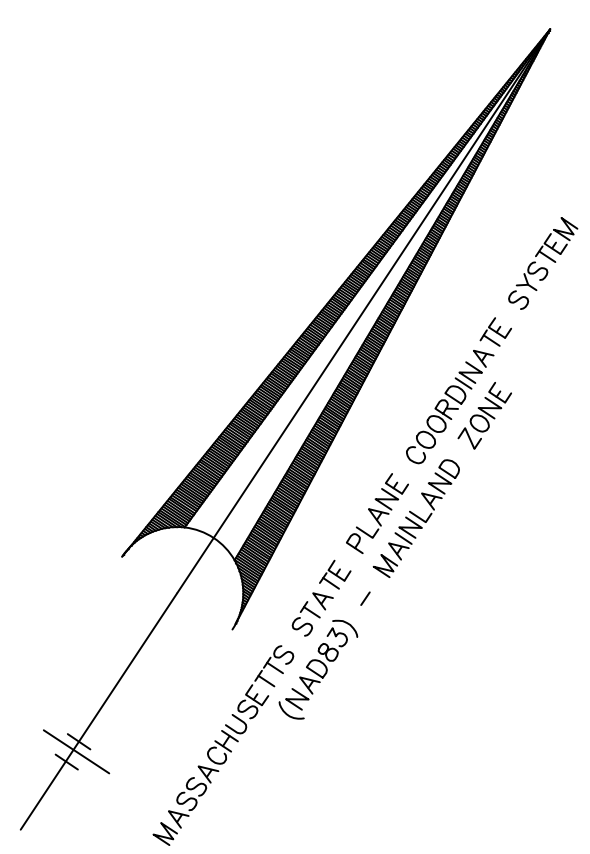
FOR REGISTRY USE

I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS.

DATE _____ PROFESSIONAL LAND SURVEYOR

LEGEND

- (R) RECORD
- (C) CALCULATED
- (R/H) RECORD AND HELD
- (FD) FOUND
- DH ● DRILL HOLE
- DHCB □ DRILL HOLE IN CONCRETE BOUND
- DHSB □ DRILL HOLE IN STONE BOUND
- I.P.I.P.E ○ IRON PIPE
- I.ROD ○ IRON ROD
- CTR. CENTER



#5 CHAMBERS STREET & #0 LINDEN STREET

Needham, Massachusetts 02492

PREPARED FOR:
BARGMANN HENDRIE + ARCHETYPE, INC.

9 Channel Center St, Suite 300
Boston, Massachusetts 02210

HANCOCK ASSOCIATES

Civil Engineers

Land Surveyors

Wetland Scientists

185 CENTRE STREET, DANVERS, MA 01923
VOICE (978) 777-3050, FAX (978) 774-7816
WWW.HANCOCKASSOCIATES.COM

ASSESSORS:

- PARCEL ID:
- 199/134.0-0041-0000.0 (PARCEL 1)
- 199/133.0-0023-0000.0 (PARCEL 2)
- 199/133.0-0024-0000.0 (PARCEL 3)

RECORD OWNER:

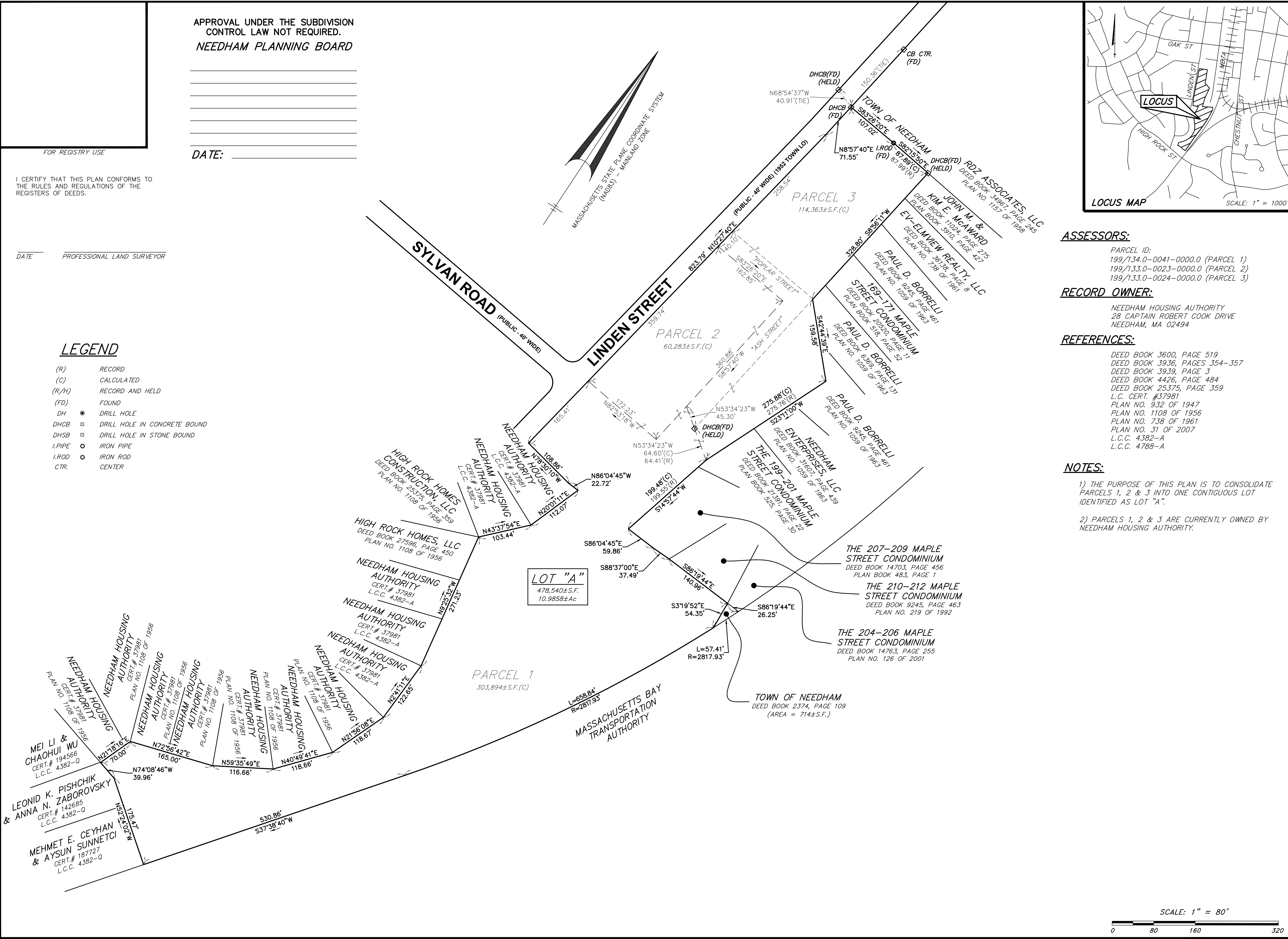
NEEDHAM HOUSING AUTHORITY
28 CAPTAIN ROBERT COOK DRIVE
NEEDHAM, MA 02494

REFERENCES:

- DEED BOOK 3600, PAGE 519
- DEED BOOK 3936, PAGES 354-357
- DEED BOOK 3939, PAGE 3
- DEED BOOK 4426, PAGE 484
- DEED BOOK 25375, PAGE 359
- L.C. CERT. #37981
- PLAN NO. 932 OF 1947
- PLAN NO. 1108 OF 1956
- PLAN NO. 738 OF 1961
- PLAN NO. 31 OF 2007
- L.C.C. 4382-A
- L.C.C. 4788-A

NOTES:

- 1) THE PURPOSE OF THIS PLAN IS TO CONSOLIDATE PARCELS 1, 2 & 3 INTO ONE CONTIGUOUS LOT IDENTIFIED AS LOT "A".
- 2) PARCELS 1, 2 & 3 ARE CURRENTLY OWNED BY NEEDHAM HOUSING AUTHORITY.



NO.	BY	APP.	DATE	ISSUE/REVISION	DESCRIPTION

DATE: 12/21/2023 DRAWN BY: JML
SCALE: 1" = 80' CHECK BY: JAE

PLAN OF LAND IN NEEDHAM, MA

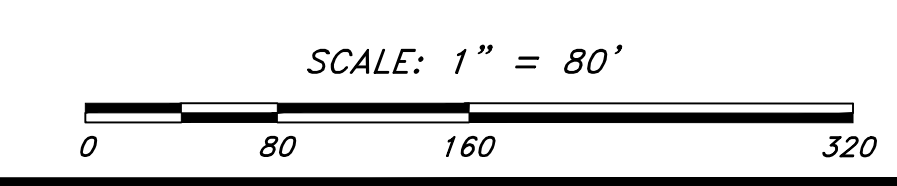
PLOT DATE: Jan 16, 2024, 2:04 pm
PATH: C:\DWG_3D\Projects\26774 - 01A - Needham\Surf\DWG\

DWG: 26774anr.dwg

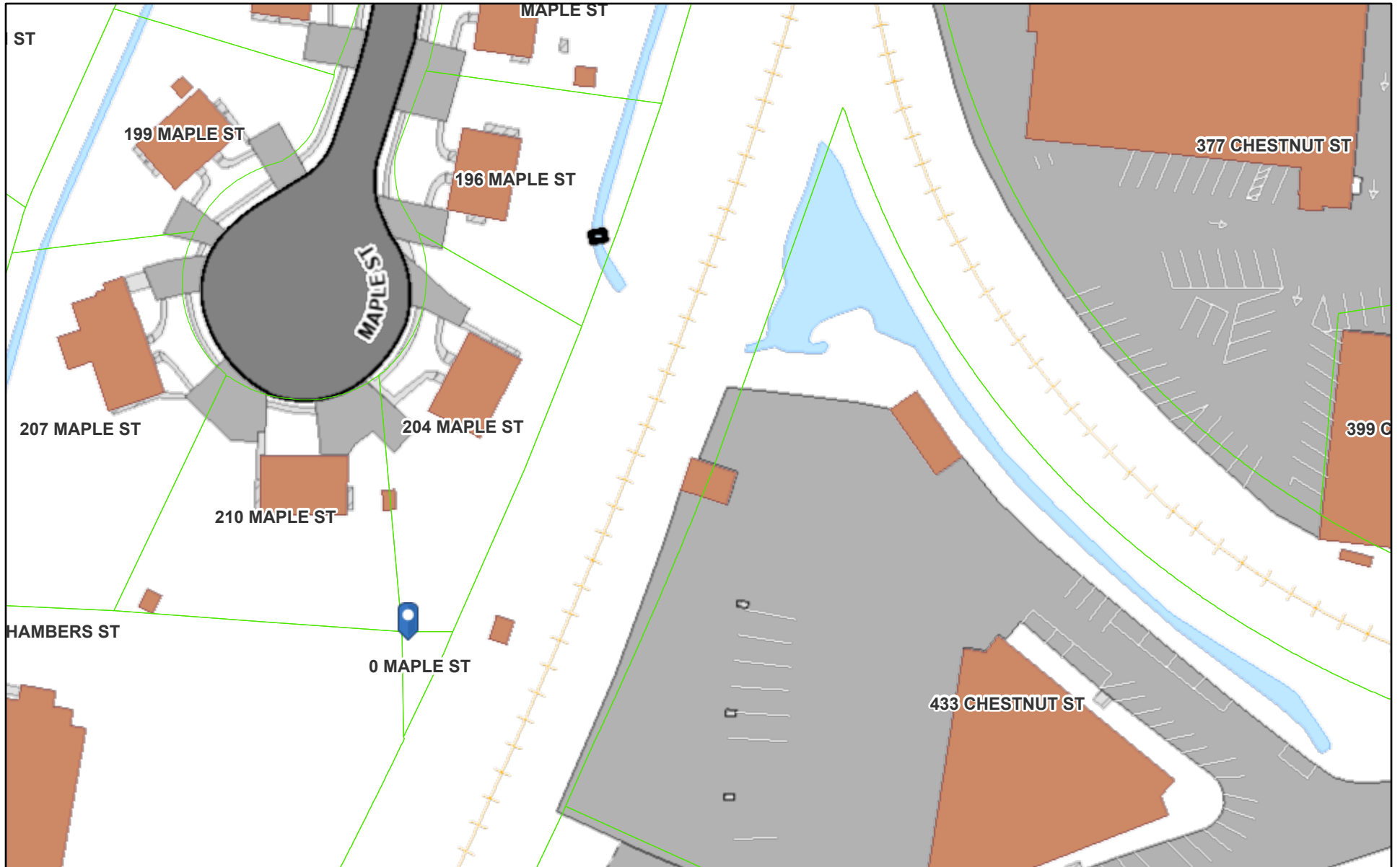
LAYOUT: ANR

SHEET: 1 OF 1

PROJECT NO.: 26774

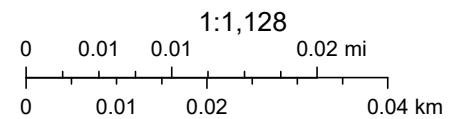


Town of Needham



12/28/2023, 1:09:09 PM

- | | | | | | | | |
|---------------------|-------------------|--------------|-----------|---------------------|----------------|----------------|---------------|
| --- Town Boundaries | ■ Buildings | Roads | ■ Unpaved | Sidewalks | Sports | ■ Sports Court | ■ Waterbodies |
| Painted Lines | + Railroad Tracks | ■ Paved | ■ Unpaved | ■ Sidewalk | ■ Sports Field | ■ Golf Bunker | ■ Parcels |
| — Parking Feature | □ Bridges | ■ Unpaved | ■ Paved | ■ Exterior Stairway | ■ Infield | ■ Golf Course | |
| — Crosswalk | | ■ Driveways | ■ Unpaved | — Sport Lines | ■ Playground | ■ Bleacher | |
| | | ■ Paved | | | | | |





**TOWN OF NEEDHAM
TOWN HALL
Needham, MA 02492-2669**

**TEL: (781) 455-7500
FAX: (781) 449-4569**

Office of the
TOWN MANAGER

January 10, 2024

Planning Board
500 Dedham Avenue
Needham, MA 02492

RE: Needham Housing Authority Linden-Chambers Rezoning

Dear Planning Board Members:

At its meeting on January 9, 2024, the Select Board discussed the zoning and non-zoning warrant articles proposal submitted by Attorney Bob Smart on behalf of the Needham Housing Authority (NHA) for its redevelopment of the Linden-Chambers property. Prior Town Meeting votes, deeds, and variances for Linden-Chambers limited development to housing for the elderly. The NHA is seeking a warrant article to authorize the Select Board to remove those existing age-based restrictions in the Authority's property deeds and related documents. NHA is also requesting that the Planning Board not include in the zoning article any age or ability restrictions.

The Select Board supports the Housing Authority's request and will be proposing the non-zoning warrant article to remove the existing restrictions. The Select Board respectfully requests that the Planning Board propose a zoning amendment free of any age or ability restrictions.

At their September 26, 2023 meeting, the Select Board adopted goals including: "Goal #3: Livable – Needham values diversity and a broad spectrum of housing options. The community is supported by well-maintained public infrastructure and desirable amenities that accommodate a variety of community needs. Needham supports an increase of housing, including a variety of types and price points." The Board adopted priority FY2024 - FY2025 initiatives to achieve their goals, including initiative #17 to support the Needham Housing Authority redevelopment project.

Governor Healey has consistently expressed that housing is a top priority for her Administration, both by increasing the number of available units and housing types in every community and by reducing the barriers residents face in accessing the housing they need. The Needham Housing Authority will need to secure significant discretionary funding from the Executive Office of Housing and Livable Communities to make the needed redevelopment of Linden-Chambers possible. Removing restrictions on who can

access these affordable units will add to the competitiveness of NHA's application and increase the likelihood of success. It will also provide the Housing Authority with flexibility to manage their housing portfolio to match community needs today and over time.

The Select Board asks the Planning Board to support NHA's request for a zoning article free of age or ability restrictions. Thank you for your consideration. If you have any questions or need additional information, please let me know.

Very truly yours,



Kate Fitzpatrick
Town Manager

Cc: Select Board
Katie King, Deputy Town Manager
Dave Davison, Deputy Town Manager/Director of Finance
Lee Newman, Director of Planning & Community Development
Reg Foster, Needham Housing Authority Board of Directors Chair
Cheryl Gosmon, Needham Housing Authority Executive Director
Bob Smart, Attorney

ARTICLE 1: AMEND ZONING BY-LAW – SOLAR ENERGY SYSTEMS

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

1. In Section 1.3 Definitions, by adding the following terms and definitions in the appropriate alphabetical location as follows:

“Solar Energy System - a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating. Solar Energy Systems include the following system types:

1. A Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:
 - a) Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
 - b) Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
 - c) Solar Energy System, Building-mounted Canopy: A special application of a Building-mounted Solar Energy System that is installed on top of a building with a flat roof that maintains the function of the area beneath the canopy.
 - d) Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
 - e) Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,500 square feet of surface area or less.
 - f) Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,500 square feet, but less than 40,000 square feet of surface area.
 - g) Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
 - h) Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.
 - i) Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function

as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

Formatted: Font: (Default) Times New Roman

2. Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.”

~~2. Amend Section 6, Special Regulations, by redesignating Subsection 6.2 Boats, Motor Homes and Trailers as Subsection 6.3, by redesignating Subsection 6.3 Filling Stations and Commercial Garages as Subsection 6.4, by redesignating Subsection 6.4 Outdoor Parking of Vehicles as Subsection 6.5, by redesignating Subsection 6.5 Limited Heliports as Subsection 6.6, and by redesignating Subsection 6.6 Complex Developments as Subsection 6.7.~~

Formatted: Indent Left: 0", Hanging: 0.25", Right: 0.47", Space After: 6.1 pt, Line spacing: Multiple 0.98
Tab stops: 0.25", Left + Not at 0"

~~3.2.~~ Amend Section 6, Special Regulations, by adding a new Subsection 6.132 Accessory Uses – Solar Energy Systems, to read as follows:

“6.132 Accessory Uses – Solar Energy Systems

~~6.2.16.13.1~~ Basic Requirements

Formatted: Font: (Default) Times New Roman

a) Roof-mounted Solar Energy Systems shall be permitted in all use districts as-of-right. The installation of Roof-mounted Solar Energy Systems that: (i) comply with the regulations provided in this section; (ii) are located on properties with nonconforming uses or structures; and (iii) do not increase the nonconformity of such nonconforming uses or structures except with respect to the dimensions of the Roof-mounted Solar Energy System in question shall not be considered a change, extension or alteration that requires a finding by the Zoning Board of Appeals per M.G.L. c.40A s.6.

Formatted: Indent Left: 0", Outline numbered + Level 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.63"

b) In residential districts: Small-scale Ground-mounted Solar Energy Systems ~~and Solar Parking Canopies~~ shall be permitted in rear and side yards as-of-right at the District-level setback as defined in Section 6.13.2.c)4). Small-scale Ground-mounted Solar Energy Systems may be permitted in the front yard by a Special Permit from the ~~Board of Appeals~~ Special Permit Granting Authority. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced front yard setback option. ~~Solar Parking Canopies shall be permitted in rear and side yards as-of-right.~~ Medium-scale Ground-mounted Solar Energy Systems shall be permitted in the rear and side yards as-of-right subject to site plan review by the Special Permit Granting Authority.

c) In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards as-of-right. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies are permitted in the rear and side yards as-of-right subject to site plan review by the Special Permit Granting Authority. The same regulations shall apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.

d) In the New England Business Center ~~District, Mixed Use--128 District~~ and in the portion of the Highland Commercial-128 District located a) north of Highland Avenue and b) south of Highland Avenue and west of Second Avenues: Solar Energy Building-mounted Canopy Systems are permitted as-of-right subject to site plan review by the Special Permit Granting Authority.

Formatted: Font: (Default) Times New Roman

~~e) Where Solar Energy Systems would be installed in a Historic District, the system shall require approval by the Historic District Commission.~~

~~6.2.26.13.2~~ Dimensional Requirement

a) Maximum Percentage (%) Lot Coverage

- 1) Active Solar Energy Systems are not buildings as defined in the Needham Zoning By-Law and should not be treated as such. However, for the purpose of regulating lot coverage, the area of Active Solar Energy Systems shall count toward the Maximum Percentage (%) Lot Coverage as defined and regulated in the Dimensional Regulations provided in Section 4 of the Needham Zoning By-Laws.
- 2) An Active Solar Energy System's contribution toward Maximum Percentage (%) Lot Coverage shall be calculated as the total area of the system's panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system's contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.
- 3) Such part of a Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed shall count toward Maximum Percentage (%) Lot Coverage.
- 4) For Ground-mounted Solar Energy Systems, the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Building Coverage.
- 5) To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface shall not be included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building's footprint - that is already counted).

b) Height

1) Building-mounted Solar Energy Systems:

System Type	Roof Pitch	Siting	Maximum Height
Roof mounted Solar Energy System	Pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.

Formatted: Font: (Default) Times New Roman
Formatted: Indent: Left: 0", Outline numbered + Level: 3 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.13" + Indent at: 0.63"

Roof-mounted Solar Energy System	Pitch is less than 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.
<u>Building-mounted Canopy Solar Energy System</u>	<u>Flat Roof with predominately zero pitch</u>	<u>NEBC, MU-128 & HC-128 districts</u>	<u>May extend up to fifteen (15) feet above the roof surface on which the system is installed beyond applicable building height limits.</u>
Other Building-mounted Solar Energy System (e.g., awnings)	Not Applicable	All districts	No greater than the highest point of the roof.

2) Ground-mounted Solar Energy Systems:

System Type	Siting	Maximum Height
Small-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.
Medium-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.

Solar Parking Canopy	All districts	Seventeen (17) vertical feet from grade.
----------------------	---------------	--

c) Setbacks

- 1) Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment's reach at all angles falls within the setback requirements.
- 2) Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- 3) Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees ~~may~~ shall be met elsewhere on the lot. Landscaping for parking lots located under a canopy shall be designed to manage runoff from the panels and to be shade tolerant.
- 4) All other Ground-mounted Solar Energy Systems shall meet requirements for Setbacks as defined in Section 1.3 and Section 4.2 of the Needham Zoning By-Laws, as regulated for each use district in Section 4 ("District-level setback"). Notwithstanding the above, the Board of Appeals may grant a special permit reducing the minimum side yard setback and rear yard setback required by this paragraph to no less than 5 feet for a Small-Scale Ground-mounted Energy Systems ~~having a 5-foot rear or side yard setback are permitted,~~ in the Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts ~~sets, subject to site plan review by the Special Permit Granting Authority.~~ Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced setback option.
- 5) Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

6.132.3 Supplemental Regulations

- a) BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b) The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham's Stormwater By-Law, Article 7 of the General By-Laws.

6.132.4 Site Plan Review

- a) Site Plan Review: Medium-scale Ground-mounted Solar Energy Systems in all districts, Solar Parking Canopies in non-residential districts, and Solar Energy Building-mounted Canopy Systems in the New England Business Center, Mixed Use 128, and Highland Commercial-128 districts, ~~and Small Scale Ground-mounted Solar Energy Systems not meeting District level setbacks as detailed in Section 6.2.2.c.4, or in front yards in residential districts as detailed in Section 6.2.1 b),~~ are subject to site plan review by the Special Permit Granting Authority prior to construction, installation or modification as provided in this section and in accordance with Section 7.4 Site Plan Review. The Planning Board will serve as the Special Permit Granting Authority for these systems. In reviewing a Special Permit application under Section 6.13.1 b) and Section 6.13.2 c) 4) the Board of Appeals, shall also apply the Site Plan Review Document Requirements of Section 6.13.4 b) and the Site Plan Review Design Standards of Section 6.13.3 c).
- b) Site Plan Review Document Requirements: The project proponent shall provide a Final Site Plan to the Special Permit Granting Authority in compliance with Section 7.4 Site Plan Review, Subsection 7.4.4.Procedure. In addition, applicants shall submit the following:
- 1) Name, address, and contact information for proposed system installer.
 - 2) Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - 3) The name, contact information and signature of any agents representing the project proponent.
 - 4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - 5) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
 - 6) Documentation of the major system components to be used, including the panels, mounting system, and inverter.
 - 7) Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
 - 8) Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
 - ~~9) Locations of local or National Historic Districts in relation to the site.~~
- c) Site Plan Review Design Standards: The Special Permit Granting Authority shall consider the following criteria and standards, in addition to those listed in Section

7.4.6, Review Criteria for Site Plan Review when reviewing site plan submittals made under this section:

- 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
- 2) Utility Connections: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
- 4) Height and Layout: The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
- 5) Visual Impact: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
- 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
- 7) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution."

3. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting from the second sentence of the first paragraph the phrase "solar panels," so that the sentence shall now read as follows:

"In the case of schools and other municipal buildings, structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, mechanical equipment, mechanical flues or exhausts, elevator housings or equipment, generators, roof access, stairway enclosures, skylights, and the like may exceed the maximum building height provided that no part of such structure or equipment shall project more than 15 feet above the maximum allowable building height and the total horizontal coverage of all of such structures or

Formatted: Underline

Formatted: Underline

Formatted: Right: 0.5"

projections on the building does not exceed thirty-three percent (33%) of the total roof area of the building.”

4. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting the fourth sentence of the first paragraph which reads as follows:

“Further provided, subject to the 15-foot maximum height limitation cited above, solar panels shall also be allowed on rooftops of schools and other municipal buildings with no limitation on the roof area coverage provided such panels are set back from the edge of the roof a distance at least equal to the height of the panel.”

Formatted: Font: (Default) Times New Roman

5. Amend Section 4.5 Dimensional Regulations for Highland Commercial-128, Subsection (3), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

Formatted: Underline

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

Formatted: Font: (Default) Times New Roman

6. Amend Section 4.8 Dimensional Regulations for NEBC, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

Formatted: No underline

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height, provided that the Planning Board may by Special Permit increase the height limit by not more than 5 additional feet.”

Formatted: Font: (Default) Times New Roman

Formatted: Font: (Default) Times New Roman

7. Amend Section 4.9 Dimensional Regulations for Mixed-Use 128, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

Formatted: Font: (Default) Times New Roman

Formatted: Indent Left: -0.25", Tab stops: 0.44", Left + Not at 1"

Formatted: Font: (Default) Times New Roman

Or take any other action relative thereto.

ARTICLE 1: AMEND ZONING BY-LAW – SOLAR ENERGY SYSTEMS

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

1. In Section 1.3 Definitions, by adding the following terms and definitions in the appropriate alphabetical location as follows:

“Solar Energy System - a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating. Solar Energy Systems include the following system types:

1. A Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:
 - a) Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
 - b) Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
 - c) Solar Energy System, Building-mounted Canopy: A special application of a Building-mounted Solar Energy System that is installed on top of a building with a flat roof that maintains the function of the area beneath the canopy.
 - d) Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
 - e) Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,500 square feet of surface area or less.
 - f) Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,500 square feet, but less than 40,000 square feet of surface area.
 - g) Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
 - h) Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.
 - i) Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function

as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

2. Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.”
2. Amend Section 6, Special Regulations, by adding a new Subsection 6.13 Accessory Uses – Solar Energy Systems, to read as follows:

“6.13 Accessory Uses – Solar Energy Systems

6.13.1 Basic Requirements

- a) Roof-mounted Solar Energy Systems shall be permitted in all use districts as-of-right. The installation of Roof-mounted Solar Energy Systems that: (i) comply with the regulations provided in this section; (ii) are located on properties with nonconforming uses or structures; and (iii) do not increase the nonconformity of such nonconforming uses or structures except with respect to the dimensions of the Roof-mounted Solar Energy System in question shall not be considered a change, extension or alteration that requires a finding by the Zoning Board of Appeals per M.G.L. c.40A s.6.
- b) In residential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards as-of-right at the District-level setback as defined in Section 6.13.2.c)4). Small-scale Ground-mounted Solar Energy Systems may be permitted in the front yard by a Special Permit from the Board of Appeals. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced front yard setback option. Solar Parking Canopies shall be permitted in rear and side yards as-of-right. Medium-scale Ground-mounted Solar Energy Systems shall be permitted in the rear and side yards as-of-right subject to site plan review by the Special Permit Granting Authority.
- c) In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards as-of-right. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies are permitted in the rear and side yards as-of-right subject to site plan review by the Special Permit Granting Authority. The same regulations shall apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.
- d) In the New England Business Center District, Mixed Use-128 District and in the portion of the Highland Commercial-128 District located a) north of Highland Avenue and b) south of Highland Avenue and west of Second Avenue: Solar Energy Building-mounted Canopy Systems are permitted as-of-right subject to site plan review by the Special Permit Granting Authority.

6.13.2 Dimensional Requirement

- a) Maximum Percentage (%) Lot Coverage
 - 1) Active Solar Energy Systems are not buildings as defined in the Needham Zoning By-Law and should not be treated as such. However, for the purpose of regulating

lot coverage, the area of Active Solar Energy Systems shall count toward the Maximum Percentage (%) Lot Coverage as defined and regulated in the Dimensional Regulations provided in Section 4 of the Needham Zoning By-Laws.

- 2) An Active Solar Energy System’s contribution toward Maximum Percentage (%) Lot Coverage shall be calculated as the total area of the system’s panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system’s contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.
- 3) Such part of a Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed shall count toward Maximum Percentage (%) Lot Coverage.
- 4) For Ground-mounted Solar Energy Systems, the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Building Coverage.
- 5) To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface shall not be included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building’s footprint - that is already counted).

b) Height

1) Building-mounted Solar Energy Systems:

System Type	Roof Pitch	Siting	Maximum Height
Roof mounted Solar Energy System	Pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.

Roof-mounted Solar Energy System	Pitch is less than 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.
Building-mounted Canopy Solar Energy System	Flat Roof with predominately zero pitch	NEBC, MU-128 & HC-128 districts	May extend up to fifteen (15) feet above the roof surface on which the system is installed beyond applicable building height limits.
Other Building-mounted Solar Energy System (e.g., awnings)	Not Applicable	All districts	No greater than the highest point of the roof.

2) Ground-mounted Solar Energy Systems:

System Type	Siting	Maximum Height
Small-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.
Medium-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.

Solar Parking Canopy	All districts	Seventeen (17) vertical feet from grade.
----------------------	---------------	--

c) Setbacks

- 1) Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment’s reach at all angles falls within the setback requirements.
- 2) Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- 3) Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees may be met elsewhere on the lot. Landscaping for parking lots located under a canopy shall be designed to manage runoff from the panels and to be shade tolerant.
- 4) All other Ground-mounted Solar Energy Systems shall meet requirements for Setbacks as defined in Section 1.3 and Section 4.2 of the Needham Zoning By-Laws, as regulated for each use district in Section 4 (“District-level setback”). Notwithstanding the above, the Board of Appeals may grant a special permit reducing the minimum side yard setback and rear yard setback required by this paragraph to no less than 5 feet for a Small-Scale Ground-mounted Energy System in the Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced setback option.
- 5) Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

6.13.3 Supplemental Regulations

- a) BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b) The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham’s Stormwater By-Law, Article 7 of the General By-Laws.

6.13.4 Site Plan Review

- a) Site Plan Review: Medium-scale Ground-mounted Solar Energy Systems in all districts, Solar Parking Canopies in non-residential districts, and Solar Energy Building-mounted Canopy Systems in the New England Business Center, Mixed Use 128, and Highland Commercial-128 districts, are subject to site plan review by the Special Permit Granting Authority prior to construction, installation or modification as provided in this section and in accordance with Section 7.4 Site Plan Review. The Planning Board will serve as the Special Permit Granting Authority for these systems. In reviewing a Special Permit application under Section 6.13.1 b) and Section 6.13.2 c) 4) the Board of Appeals, shall also apply the Site Plan Review Document Requirements of Section 6.13.4 b) and the Site Plan Review Design Standards of Section 6.13.3 c).
- b) Site Plan Review Document Requirements: The project proponent shall provide a Final Site Plan to the Special Permit Granting Authority in compliance with Section 7.4 Site Plan Review, Subsection 7.4.4.Procedure. In addition, applicants shall submit the following:
- 1) Name, address, and contact information for proposed system installer.
 - 2) Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - 3) The name, contact information and signature of any agents representing the project proponent.
 - 4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - 5) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
 - 6) Documentation of the major system components to be used, including the panels, mounting system, and inverter.
 - 7) Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
 - 8) Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
- c) Site Plan Review Design Standards: The Special Permit Granting Authority shall consider the following criteria and standards, in addition to those listed in Section 7.4.6, Review Criteria for Site Plan Review when reviewing site plan submittals made under this section:
- 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer’s intent to install an

interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

- 2) **Utility Connections:** Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - 3) **Safety:** The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
 - 4) **Height and Layout:** The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
 - 5) **Visual Impact:** Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
 - 6) **Land Clearing, Soil Erosion and Habitat Impacts:** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
 - 7) **Lighting:** The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.”
3. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting from the second sentence of the first paragraph the phrase “solar panels,” so that the sentence shall now read as follows:
- “In the case of schools and other municipal buildings, structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, mechanical equipment, mechanical flues or exhausts, elevator housings or equipment, generators, roof access, stairway enclosures, skylights, and the like may exceed the maximum building height provided that no part of such structure or equipment shall project more than 15 feet above the maximum allowable building height and the total horizontal coverage of all of such structures or projections on the building does not exceed thirty-three percent (33%) of the total roof area of the building.”
4. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting the fourth sentence of the first paragraph which reads as follows:

“Further provided, subject to the 15-foot maximum height limitation cited above, solar panels shall also be allowed on rooftops of schools and other municipal buildings with no limitation on the roof area coverage provided such panels are set back from the edge of the roof a distance at least equal to the height of the panel.”

5. Amend Section 4.5 Dimensional Regulations for Highland Commercial-128, Subsection (3), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

6. Amend Section 4.8 Dimensional Regulations for NEBC, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height, provided that the Planning Board may by Special Permit increase the height limit by not more than 5 additional feet.”

7. Amend Section 4.9 Dimensional Regulations for Mixed-Use 128, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

Or take any other action relative thereto.

Town Counsel comments

ARTICLE 1: AMEND ZONING BY-LAW – SOLAR ENERGY SYSTEMS

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

1. In Section 1.3 Definitions, by adding the following terms and definitions in the appropriate alphabetical location as follows:

“Solar Energy System - a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating. Solar Energy Systems include the following system types:

1. A Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:
 - a) Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
 - b) Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
 - c) Solar Energy System, Building-mounted Canopy: A special application of a Building-mounted Solar Energy System that is installed on top of a building with a flat roof that maintains the function of the area beneath the canopy.
 - d) Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
 - e) Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,500 square feet of surface area or less.
 - f) Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,500 square feet, but less than 40,000 square feet of surface area.
 - g) Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
 - h) Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.
 - i) Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway, walkway, patio surface, path, or parking area, where the solar panels themselves function

as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

2. Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.”
2. Amend Section 6, Special Regulations, by adding a new Subsection 6.13 Accessory Uses – Solar Energy Systems, to read as follows:

“6.13 Accessory Uses – Solar Energy Systems

6.13.1 Basic Requirements

- a) Roof-mounted Solar Energy Systems shall be permitted in all use districts as-of-right. The installation of Roof-mounted Solar Energy Systems that: (i) comply with the regulations provided in this section; (ii) are located on properties with nonconforming uses or structures; and (iii) do not increase the nonconformity of such nonconforming uses or structures except with respect to the dimensions of the Roof-mounted Solar Energy System in question shall not be considered a change, extension or alteration that requires a finding by the Zoning Board of Appeals per M.G.L. c.40A s.6.

b) ~~b~~ In residential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards as-of-right at the District-level setback as defined in Section 6.13.2.c)4). Small-scale Ground-mounted Solar Energy Systems may be permitted in the front yard ~~by~~ a Special Permit from the Board of Appeals. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be ~~provided for the reduced front yard setback option~~. Solar Parking Canopies shall be permitted in rear and side yards as-of-right. Medium-scale Ground-mounted Solar Energy Systems shall be permitted in the rear and side yards as-of-right subject to ~~site plan review by the Special Permit Granting Authority~~.

- c) In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards as-of-right. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies are permitted in the rear and side yards as-of-right subject to site plan review by the Special Permit Granting Authority. The same regulations shall apply in residential districts for uses allowed by operation of exempted uses as defined by-M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.

- d) In the New England Business Center District, Mixed Use-128 District and in the portion of the Highland Commercial-128 District located a) north of Highland Avenue and b) south of Highland Avenue and west of Second Avenue: Solar Energy Building-mounted Canopy Systems are permitted as-of-right subject to site plan review by the Special Permit Granting Authority.

6.13.2 Dimensional Requirement

- a) Maximum Percentage (%) Lot Coverage

- 1) Active Solar Energy Systems are not buildings as defined in the Needham Zoning By-Law and should not be treated as such. However, for the purpose of regulating lot coverage, the area of Active Solar Energy Systems shall count toward the

Formatted: Font: (Default) Times New Roman

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.31" + Indent at: 0.56"

Commented [CH1]: What is the reduced front yard setback option? The later section speaks to reduced side and rear yard setbacks by special permit; I didn't see any other mention of reducing the front yard setback.

Formatted: Font: (Default) Times New Roman

Commented [CH2]: I worry that referring to "site plan review" being performed by the "Special Permit Granting Authority" may lead to confusion. As I read the bylaw, these uses are subject to JUST site plan review, not a site plan review + special permit. If I am correct, can we strike "Special Permit Granting Authority" here and throughout the remainder of the bylaw, and instead refer to the Planning Board or ZBA by name?

Formatted: Font: (Default) Times New Roman, Highlight

Formatted: Font: (Default) Times New Roman

Commented [CH3]: Should this phrase be here? I think this is talking about protected uses (not ones allowed under our Bylaw).

Commented [CH4]: We say here that ASES's are not buildings but are subject to maximum lot coverage. This suggests that because they are not buildings they are NOT subject to other dimensional requirements (for example, setbacks). I don't think that is the intended result, but I worry that there may be unanticipated consequences to saying that these are not buildings. If this sentence is not important, perhaps we can delete it. If it is important, let's make sure we know all of the regulations that are affected by this statement.

Maximum Percentage (%) Lot Coverage as defined and regulated in the Dimensional Regulations provided in Section 4 of the Needham Zoning By-Laws.

- 2) An Active Solar Energy System’s contribution toward Maximum Percentage (%) Lot Coverage shall be calculated as the total area of the system’s panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system’s contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.
- 3) Such part of a Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed shall count toward Maximum Percentage (%) Lot Coverage.
- 4) For Ground-mounted Solar Energy Systems, the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Building Coverage.
- 5) To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface shall not be included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building’s footprint - that is already counted).

b) Height

1) Building-mounted Solar Energy Systems:

System Type	Roof Pitch	Siting	Maximum Height
Roof mounted Solar Energy System	Pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.

Roof-mounted Solar Energy System	Pitch is less than 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.
Building-mounted Canopy Solar Energy System	Flat Roof with predominately zero pitch	NEBC, MU-128 & HC-128 districts	May extend up to fifteen (15) feet above the roof surface on which the system is installed beyond applicable building height limits.
Other Building-mounted Solar Energy System (e.g., awnings)	Not Applicable	All districts	No greater than the highest point of the roof.

2) Ground-mounted Solar Energy Systems:

System Type	Siting	Maximum Height
Small-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.
Medium-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.

Solar Parking Canopy	All districts	Seventeen (17) vertical feet from grade.
----------------------	---------------	--

c) Setbacks

- 1) Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment’s reach at all angles falls within the setback requirements.
- 2) Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- 3) Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees may be met elsewhere on the lot. Landscaping for parking lots located under a canopy shall be designed to manage runoff from the panels and to be shade tolerant.
- 4) All other Ground-mounted Solar Energy Systems shall meet requirements for Setbacks as defined in Section 1.3 and Section 4.2 of the Needham Zoning By-Laws, as regulated for each use district in Section 4 (“District-level setback”). Notwithstanding the above, the Board of Appeals may grant a special permit reducing the minimum side yard setback and rear yard setback required by this paragraph to no less than 5 feet for a Small-Scale Ground-mounted Energy System in the Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced setback option.
- 5) Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

Commented [CH5]: This is the first mention of Surface-integrated Solar Energy Systems since the definition section. I suggest that we add this to Section 6.13.1 to make clear which districts this use is allowed in.

6.13.3 Supplemental Regulations

- a) BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b) The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham’s Stormwater By-Law, Article 7 of the General By-Laws.

Commented [CH6]: Can we say in Section 6.13.1 that these two uses are allowed as part of any use or site otherwise allowed in any Zoning District? The “use” section of this bylaw is currently silent on where these are allowed .

6.13.4 Site Plan Review

a) Site Plan Review: Medium-scale Ground-mounted Solar Energy Systems in all districts, Solar Parking Canopies in non-residential districts, and Solar Energy Building-mounted Canopy Systems in the New England Business Center, Mixed Use 128, and Highland Commercial-128 districts, are subject to site plan review by the Special Permit Granting Authority prior to construction, installation or modification as provided in this section and in accordance with Section 7.4 Site Plan Review. The Planning Board will serve as the Special Permit Granting Authority for these systems. In reviewing a Special Permit application under Section 6.13.1 b) and Section 6.13.2 c) 4) the Board of Appeals, shall also apply the Site Plan Review Document Requirements of Section 6.13.4 b) and the Site Plan Review Design Standards of Section 6.13.3 c).

Formatted: Highlight

Formatted: Highlight

b) Site Plan Review Document Requirements: The project proponent shall provide a Final Site Plan to the Special Permit Granting Authority in compliance with Section 7.4 Site Plan Review, Subsection 7.4.4.Procedure. In addition, applicants shall submit the following:

- 1) Name, address, and contact information for proposed system installer.
- 2) Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
- 3) The name, contact information and signature of any agents representing the project proponent.
- 4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
- 5) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
- 6) Documentation of the major system components to be used, including the panels, mounting system, and inverter.
- 7) Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- 8) Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.

c) Site Plan Review Design Standards: The Special Permit Granting Authority shall consider the following criteria and standards, in addition to those listed in Section 7.4.6, Review Criteria for Site Plan Review when reviewing site plan submittals made under this section:

Formatted: Highlight

- 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer's intent to install an

Formatted: Highlight

interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

- 2) Utility Connections: Reasonable efforts, as determined by the **Special Permit Granting Authority**, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a **person** responsible **for responding to municipal officials person for public inquiries** throughout the life of the installation.
- 4) Height and Layout: The **Special Permit Granting Authority** shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
- 5) Visual Impact: Reasonable efforts, as determined by the **Special Permit Granting Authority**, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
- 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
- 7) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.”

3. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting from the second sentence of the first paragraph the phrase “solar panels,” so that the sentence shall now read as follows:

“In the case of schools and other municipal buildings, structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, mechanical equipment, mechanical flues or exhausts, elevator housings or equipment, generators, roof access, stairway enclosures, skylights, and the like may exceed the maximum building height provided that no part of such structure or equipment shall project more than 15 feet above the maximum allowable building height and the total horizontal coverage of all of such structures or projections on the building does not exceed thirty-three percent (33%) of the total roof area of the building.”

4. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting the fourth sentence of the first paragraph which reads as follows:

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Commented [CH7]: Just a thought: There is tension between this section on visual impacts, and what this bylaw is otherwise trying to accomplish. These uses almost necessarily involve clear cutting, building as close as possible to the property line, and increasing the height of structures (for example, parking canopies). As drafted, this section will likely result in pressure during site plan review for the Board to scale back what is otherwise being allowed in this bylaw.

I don't have a good answer to this conundrum, but the Board may wish to consider spelling out what “reasonable efforts” are, right now. For example, a requirement that there be fencing up to a certain height, or that natural landscaping be preserved *within the required setback only*. Alternatively, the Board may wish to acknowledge that these uses will have visual impacts that will not be fully mitigated beyond application of the dimensional requirements that are set forth in this bylaw.

Above all, I worry that tasking the property owner with “preserving the natural vegetation” when installing a solar facility is tricky. Also, it may be impossible to apply the “reasonable effort” standard productively in a contentious site plan review.

“Further provided, subject to the 15-foot maximum height limitation cited above, solar panels shall also be allowed on rooftops of schools and other municipal buildings with no limitation on the roof area coverage provided such panels are set back from the edge of the roof a distance at least equal to the height of the panel.”

5. Amend Section 4.5 Dimensional Regulations for Highland Commercial-128, Subsection (3), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

6. Amend Section 4.8 Dimensional Regulations for NEBC, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height, provided that the Planning Board may by Special Permit increase the height limit by not more than 5 additional feet.”

7. Amend Section 4.9 Dimensional Regulations for Mixed-Use 128, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

Or take any other action relative thereto.

ARTICLE 1: AMEND ZONING BY-LAW – SOLAR ENERGY SYSTEMS

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

1. In Section 1.3 Definitions, by adding the following terms and definitions in the appropriate alphabetical location as follows:

“Solar Energy System - a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating. Solar Energy Systems include the following system types:

1. A Solar Energy System, Active: A solar energy system whose primary purpose is to harvest solar energy into another form of energy or to transfer heat from a collector to another medium using mechanical, electrical, or chemical means. Active Solar Energy Systems include, but are not limited to, the following installation types:

- a) Solar Energy System, Building-mounted: An Active Solar Energy System that is structurally mounted to a building or structure.
- b) Solar Energy System, Roof-mounted: A special application of a Building-mounted Solar Energy System that is structurally mounted to the roof of a building or structure.
- c) Solar Energy System, Building-mounted Canopy: A special application of a Building-mounted Solar Energy System that is installed on top of a building with a flat roof that maintains the function of the area beneath the canopy.
- d) Solar Energy System, Ground-mounted: An Active Solar Energy System that is structurally mounted to the ground.
- e) Solar Energy System, Small-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies 1,500 square feet of surface area or less.
- f) Solar Energy System, Medium-Scale Ground-mounted: A Ground-mounted Solar Energy System that occupies more than 1,500 square feet, but less than 40,000 square feet of surface area.
- g) Solar Parking Canopy: A special application of a Ground-mounted Solar Energy System that is installed on top of a parking surface or paved surface that maintains the function of the area beneath the canopy.
- h) Solar Energy System, Building-integrated Photovoltaic (BIPV): An Active Solar Energy System that consists of integrating solar photovoltaic (PV) modules into the surface of a building or structure, where the solar panels themselves function as, or are integrated into, a building material (i.e., roof shingles, siding, windows, skylights) or structural element (i.e., façade). The generation of solar energy is secondary to the function of the building material or structural element.
- i) Solar Energy System, Surface-integrated: An Active Solar Energy System that is not building-mounted and is integrated into a ground level surface, such as a driveway,

walkway, patio surface, path, or parking area, where the solar panels themselves function as, or are integrated into, the surface material. The generation of solar energy is secondary to the function of the surface element.

2. Solar Energy System, Passive: A Solar Energy System that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.”

2. Amend Section 6, Special Regulations, by adding a new Subsection 6.13 Accessory Uses – Solar Energy Systems, to read as follows:

“6.13 Accessory Uses – Solar Energy Systems

6.13.1 Basic Requirements

a) Roof-mounted Solar Energy Systems shall be permitted in all use districts as-of-right. The installation of Roof-mounted Solar Energy Systems that: (i) comply with the regulations provided in this section; (ii) are located on properties with nonconforming uses or structures; and (iii) do not increase the nonconformity of such nonconforming uses or structures except with respect to the dimensions of the Roof-mounted Solar Energy System in question shall not be considered a change, extension or alteration that requires a finding by the Zoning Board of Appeals per M.G.L. c.40A s.6.

b) In residential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards as-of-right at the District-level setback as defined in Section 6.13.2.c)4). Small-scale Ground-mounted Solar Energy Systems may be permitted in the front yard by a Special Permit from the Board of Appeals. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced front yard setback option. Solar Parking Canopies shall be permitted in rear and side yards as-of-right. Medium-scale Ground-mounted Solar Energy Systems shall be permitted in the rear and side yards as-of-right subject to site plan review by the Special Permit Granting Authority.

c) In nonresidential districts: Small-scale Ground-mounted Solar Energy Systems shall be permitted in rear and side yards as-of-right. Medium-scale Ground-mounted Solar Energy Systems and Solar Parking Canopies are permitted in the rear and side yards as-of-right subject to site plan review by the Special Permit Granting Authority. The same regulations shall apply in residential districts for exempted uses as defined by M.G.L. c.40A s.3, or other state and federal statutes, and by the Needham Zoning By-Laws.

d) In the New England Business Center District, Mixed Use-128 District and in the portion of the Highland Commercial-128 District located a) north of Highland Avenue and b) south of Highland Avenue and west of Second Avenue: Solar Energy Building-mounted Canopy Systems are permitted as-of-right subject to site plan review by the Special Permit Granting Authority.

6.13.2 Dimensional Requirement

a) Maximum Percentage (%) Lot Coverage

- 1) Active Solar Energy Systems are not buildings as defined in the Needham Zoning By-Law and should not be treated as such. However, for the purpose of regulating lot coverage, the area of Active Solar Energy Systems shall count toward the Maximum Percentage (%) Lot Coverage as defined and regulated in the Dimensional Regulations provided in Section 4 of the Needham Zoning By-Laws.
- 2) An Active Solar Energy System's contribution toward Maximum Percentage (%) Lot Coverage shall be calculated as the total area of the system's panels. For example, if a system includes ten (10) panels that are each three (3) feet by five (5) feet, the system's contribution to Maximum Percentage (%) Lot Coverage would equal 150 square feet.
- 3) Such part of a Building-mounted Solar Energy System or Solar Parking Canopy that extends beyond the impervious area over which it is placed shall count toward Maximum Percentage (%) Lot Coverage.
- 4) For Ground-mounted Solar Energy Systems, the total surface area of the Solar Energy System shall count toward Maximum Percentage (%) Building Coverage.
- 5) To avoid double counting, the surface area of any Active Solar Energy System that is above an existing impervious surface shall not be included in the calculation of Maximum Percentage (%) Lot Coverage (i.e. the addition of a Roof-mounted Solar Energy System shall not increase the calculated Maximum Percentage Building Coverage on a lot because it will be located within a surface area - the building's footprint - that is already counted).

b) Height

1) Building-mounted Solar Energy Systems:

System Type	Roof Pitch	Siting	Maximum Height
Roof mounted Solar Energy System	Pitch is greater than or equal to 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to one (1) foot above the roof surface on which the system is installed beyond applicable building height limits. Systems shall be surface-mounted and installed parallel to the roof surface.

Roof-mounted Solar Energy System	Pitch is less than 3.2:12 (a fifteen (15) degree angle)	All districts	Roof-mounted Solar Energy Systems may extend up to three (3) feet above the roof surface on which the system is installed beyond applicable building height limits. If the surface on which the system is to be mounted is below maximum building height, the Roof-mounted Solar Energy System may extend up to six (6) feet above the roof surface on which the system is installed, provided it does not exceed building height limits by more than three (3) feet; and provided further that any Roof-mounted Solar Energy System that extends more than three (3) feet above the roof surface on which the system is installed must be installed at least three (3) feet from the roof's edge.
Building-mounted Canopy Solar Energy System	Flat Roof with predominately zero pitch	NEBC, MU-128 & HC-128 districts	May extend up to fifteen (15) feet above the roof surface on which the system is installed beyond applicable building height limits.
Other Building-mounted Solar Energy System (e.g., awnings)	Not Applicable	All districts	No greater than the highest point of the roof.

2) Ground-mounted Solar Energy Systems:

System Type	Siting	Maximum Height
Small-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.
Medium-Scale Ground-mounted Solar Energy System	SRB & GR districts	Eight (8) vertical feet from grade.
	All other districts	Ten (10) vertical feet from grade.

Solar Parking Canopy	All districts	Seventeen (17) vertical feet from grade.
----------------------	---------------	--

c) Setbacks

- 1) Ground-mounted Solar Energy Systems that move along an axis, unfold, or open shall be located so that the entirety of the equipment’s reach at all angles falls within the setback requirements.
- 2) Solar Parking Canopies in residential districts shall meet setback requirements for Accessory Structures.
- 3) Solar Parking Canopies and Surface-integrated Solar Energy Systems in non-residential zones shall be allowed where parking is permitted in accordance with the requirements defined in Section 5.1.3, Parking Plan and Design Requirements. The requirements for the planting of trees in landscaped strips within the parking area as defined in Section 5.1.3, Paragraphs (k) Landscape Areas and Paragraph (l) Trees may be met elsewhere on the lot. Landscaping for parking lots located under a canopy shall be designed to manage runoff from the panels and to be shade tolerant.
- 4) All other Ground-mounted Solar Energy Systems shall meet requirements for Setbacks as defined in Section 1.3 and Section 4.2 of the Needham Zoning By-Laws, as regulated for each use district in Section 4 (“District-level setback”). Notwithstanding the above, the Board of Appeals may grant a special permit reducing the minimum side yard setback and rear yard setback required by this paragraph to no less than 5 feet for a Small-Scale Ground-mounted Energy System in the Rural Residence-Conservation, Single Residence A, Single Residence B, and General Residence Districts. Screening or landscaping of such systems from view from abutting lots or from a street, by plantings, walls, fences or other devices shall be provided for the reduced setback option.
- 5) Any reach of a Building-Mounted Solar Energy System shall comply with the setback requirements for that building.

6.13.3 Supplemental Regulations

- a) BIPV Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to the material or structural element into which the system is integrated or functions as. For example, solar roofing would be subject to regulations for roofing; solar pavement would be subject to regulations for pavement.
- b) The impervious portion of Ground-mounted Solar Energy Systems and Surface-integrated Solar Energy Systems shall be subject to any requirements in the Needham Zoning By-Laws that relate to paving, including impervious lot coverage requirements within the Aquifer Protection District. The systems shall also comply with regulations identified in the Town of Needham’s Stormwater By-Law, Article 7 of the General By-Laws.

6.13.4 Site Plan Review

- a) Site Plan Review: Medium-scale Ground-mounted Solar Energy Systems in all districts, Solar Parking Canopies in non-residential districts, and Solar Energy Building-mounted Canopy Systems in the New England Business Center, Mixed Use 128, and Highland Commercial-128 districts, are subject to site plan review by the Special Permit Granting Authority prior to construction, installation or modification as provided in this section and in accordance with Section 7.4 Site Plan Review. The Planning Board will serve as the Special Permit Granting Authority for these systems. In reviewing a Special Permit application under Section 6.13.1 b) and Section 6.13.2 c) 4) the Board of Appeals, shall also apply the Site Plan Review Document Requirements of Section 6.13.4 b) and the Site Plan Review Design Standards of Section 6.13.3 c).
- b) Site Plan Review Document Requirements: The project proponent shall provide a Final Site Plan to the Special Permit Granting Authority in compliance with Section 7.4 Site Plan Review, Subsection 7.4.4.Procedure. In addition, applicants shall submit the following:
- 1) Name, address, and contact information for proposed system installer.
 - 2) Name, address, contact information and signature of the project proponent, as well as all co-proponents or property owners, if any.
 - 3) The name, contact information and signature of any agents representing the project proponent.
 - 4) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures.
 - 5) Blueprints or drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site buildings and structures, and the tallest finished height of the Solar Energy System.
 - 6) Proposed Plans should be stamped by electrical, civil, and structural engineers for their respective scope of work. Systems that are installed on existing structures must have a structural analysis stamped by a PE that demonstrates the structure can handle the additional deadloads of the system as well as uplift wind loads per the local and state building codes.
 - 7) Ground mounted solar structures must include geotechnical reports and engineering of any foundations associated with the new solar system per local and state building codes.
 - 8) Plans must include stormwater analysis with erosion control plans for proposed solar systems as well as stormwater control measures. Site modifications must meet the current storm water by-laws for stormwater infiltration requirements. Impervious infiltration areas will include all impervious surfaces associated with the new solar system.
 - 9) Documentation of the major system components to be used, including the panels, mounting system, and inverter.
 - 10) Operation and Maintenance Plan including measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.

- 11) Locations of active farmland, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and “Important Wildlife Habitat” mapped by the Massachusetts Department of Environmental Protection (MassDEP) in relation to the site.
- c) Site Plan Review Design Standards: The Special Permit Granting Authority shall consider the following criteria and standards, in addition to those listed in Section 7.4.6, Review Criteria for Site Plan Review when reviewing site plan submittals made under this section:
- 1) Utility Notification: No solar photovoltaic system shall be installed until evidence has been given to the Special Permit Granting Authority that the owner has submitted notification to the utility company of the customer’s intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
 - 2) Utility Connections: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
 - 3) Safety: The owner or operator shall provide a copy of the Site Plan Review application to the Needham Fire Department and shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
 - 4) Height and Layout: The Special Permit Granting Authority shall also review the height and physical layout of the Solar Energy Systems, utility connections, and appurtenant infrastructure as it relates to the convenience and safety of emergency vehicles, private vehicles and pedestrian movement on the site.
 - 5) Visual Impact: Reasonable efforts, as determined by the Special Permit Granting Authority, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures.
 - 6) Land Clearing, Soil Erosion and Habitat Impacts: Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy systems or as otherwise prescribed by applicable laws, regulations, and By-Laws.
 - 7) Stormwater: The Special Permit Granting Authority shall review the existing and post stormwater analysis to meet the current stormwater by-law infiltration requirements.
 - 8) Lighting: The Special Permit Granting Authority shall review the physical lighting of the site, including the methods of exterior lighting for convenience, safety and security within the site, and in consideration of impacts of neighboring properties and excessive light pollution. Where feasible, lighting of the Solar Energy System shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.”

3. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting from the second sentence of the first paragraph the phrase “solar panels,” so that the sentence shall now read as follows:

“In the case of schools and other municipal buildings, structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, mechanical equipment, mechanical flues or exhausts, elevator housings or equipment, generators, roof access, stairway enclosures, skylights, and the like may exceed the maximum building height provided that no part of such structure or equipment shall project more than 15 feet above the maximum allowable building height and the total horizontal coverage of all of such structures or projections on the building does not exceed thirty-three percent (33%) of the total roof area of the building.”

4. Amend Section 4.2 Dimensional Regulations for Rural Residence-Conservation, Single Residence A, Single Residence B, General Residence, and Institutional Districts, Subsection 4.2.8 Height Limitation Exceptions, by deleting the fourth sentence of the first paragraph which reads as follows:

“Further provided, subject to the 15-foot maximum height limitation cited above, solar panels shall also be allowed on rooftops of schools and other municipal buildings with no limitation on the roof area coverage provided such panels are set back from the edge of the roof a distance at least equal to the height of the panel.”

5. Amend Section 4.5 Dimensional Regulations for Highland Commercial-128, Subsection (3), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

6. Amend Section 4.8 Dimensional Regulations for NEBC, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air-conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height, provided that the Planning Board may by Special Permit increase the height limit by not more than 5 additional feet.”

7. Amend Section 4.9 Dimensional Regulations for Mixed-Use 128, Subsection (1), by deleting from the fourth sentence of said subsection the phrase “solar or photovoltaic panels,” so that the sentence shall now read as follows:

“Structures erected on a building and not used for human occupancy, such as chimneys, heating-ventilating or air conditioning equipment, elevator housings, skylights, cupolas, spires and the like may exceed the maximum building height provided that no part of such structure shall project more than 15 feet above the maximum allowable building height, the total horizontal coverage of all of

such structures on the building does not exceed 25 percent, and all of such structures are set back from the roof edge by a distance no less than their height.”

Or take any other action relative thereto.

From: [Stephen Frail](#)
To: [Planning](#)
Cc: [Nick Hill](#); [Gabrielle Queenan](#); [Henry Haff](#)
Subject: Small-scale ground-based solar arrays
Date: Thursday, January 11, 2024 8:51:16 PM

Mr. Block and the Planning Board:

I am writing in my capacity of Chair of the Needham Climate Action Planning Committee but speaking for myself.

Our committee met today to review the Planning Board's progress in bringing an updated solar bylaw to Town Meeting, as recommended by the CAPC to the Planning Board in our letter sent on May 26, 2023. In that letter, we requested that the Planning Board consider "updating our Town's zoning and permitting bylaws to **encourage more installation of solar PV**, especially over parking lots and commercial buildings."

Artie Crocker summarized the progress of the Planning Board towards this goal for our committee. Overall, the consensus was that the progress of the Planning Board is encouraging, especially for the provisions to allow for solar canopies over parking lots and commercial buildings. Hank Half raised a good question about whether the language covering solar canopies over a commercial rooftop in the industrial district might be extended to public school and municipal buildings. While I haven't seen the proposed language for the commercial rooftops or compared it to the existing bylaw for school and municipal buildings, I would ask the Planning Board to review both and see if there is anything that can be done for the public buildings to give them the same rights we are considering giving to private commercial buildings. Doing so would go a long way towards enabling the Town to achieve net zero GHG emissions, especially as we replace Pollard and Mitchell and upgrade systems for other buildings.

There was considerably less enthusiasm in today's meeting for the direction that the Planning Board has taken regarding small-scale ground-based solar installations, installations that today are allowed in Needham with a simple building permit so long as they adhere to accessory structure height and setback limits. Artie reported that the Planning Board is considering subjecting small-scale ground-based solar installations to a special permitting process. I was already concerned that the Planning Board was considering site plan review for small-scale ground-based solar arrays. I am genuinely alarmed to hear that it is now considering special permits. If the Planning Board carries through with this proposed language, it is my opinion the Planning Board will likely overstepping its regulatory authority and the bylaw will be struck down by the Commonwealth.

I contacted Dillan Patel, Regional Coordinator, Green Communities of the Massachusetts Department of Energy Resources, to ask him what restrictions, if any, can be placed on small-scale ground-based solar installations. At the time, the Planning Board was considering requiring site plan review for small-scale ground-based arrays. I asked if site plan reviews in and of themselves might be unreasonable restrictions. Dillan's responded to me as follows.

"Our model bylaw states that site plan reviews do not conflict with either as-of-right-zoning

or expedited permitting. The Planning Board may impose "reasonable conditions" on a site plan application but not prohibit them:

"Site plan approval acts as a method for regulating as-of-right uses rather than prohibiting them as per [Y.D. Dugout, Inc. v. Bd. Of Appeals of Canton](#), 357 Mass. 25, 31, 255 N.E.2d 732 (1970). When evaluating the Site Plan Applications, the Planning Board may not unconditionally deny the Site Plan Applications, but rather, it may impose reasonable conditions upon them. See [Prudential](#), 23 Mass.App.Ct. at 281-82, 502 N.E.2d 137; [Quincy](#), 39 Mass.App.Ct. at 21-22, 652 N.E.2d 901" - this is an excerpt from our [model bylaw](#).

You are correct that small solar is protected under MGL 40A.3. I do not believe the above conflicts with the Dover Amendment, since site plan review does not prohibit nor unreasonably regulate solar energy systems.

Of course, I foresee questions and possibly legal battles over what “(un)reasonable” means. However, based on our bylaw, I think that **reasonable conditions are only intended such that the solar development conform with all aspects of the bylaw and other zoning considerations – technical matters, and regulations intended to conserve the health, safety, and welfare of the public. If the project already conforms with local zoning, I do not think that the Planning Board can impose additional conditions.”**

That is, if the project adheres to height and setback limits for accessory structures and does not exceed lot coverage ratios, the permit cannot be denied nor can other unreasonable restrictions be placed on it.

I have watched several of the Planning Board meetings where the solar bylaw has been discussed, and I've been disheartened by how much of the discussion has focused on aesthetics of solar arrays. We are in a climate crisis and desperately need more, clean energy. The Commonwealth of Massachusetts has made clear both through legislation and court decisions that it will push back on communities that try to limit solar PV installations based upon aesthetic arguments. You may not like the look of solar arrays, but you have no more right to regulate them than you do a patio, a pergola, or a car port. Requiring increased setbacks or adding screening for a small-scale ground-based solar array when such requirements are not made of other accessory structures would, as I understand it, be interpreted as unreasonable restrictions. The public record will show that the Planning Board's arguments for site plan review or special permits for small-scale ground-based solar installations were not intended to "conserve the health, safety, and welfare of the public," and that will likely doom that part of the bylaw. A special permitting process, because it is discretionary, almost certainly will be struck down by the state for small-scale ground-based solar installations. If you can't under state law deny a permit for a solar array, then a special permitting process is just a waste of everyone's time.

I'd like to go back to the original rationale that the CAPC gave when it recommended this action to the Planning Board: to encourage more installation for solar PV. Site plan reviews or special permits for small-scale ground-based solar arrays do not encourage more installation as both are *more restrictive* than the current bylaw. To the extent that we need to define small-scale ground-based

solar arrays it should only be to distinguish them from medium and large-scale ground-based solar arrays, which the Town should subject to more scrutiny. As recommended by DOER model bylaw and as provided by the CAPC in its proposed adaptation of the DOER model bylaw, I strongly urge the Planning Board to allow small-scale ground-based solar arrays by right, without site plan review, so long as they conform to accessory structure height and setback restrictions.

Once the Planning Board finalizes the warrant article and submits it for public comment, I expect that the CAPC will weigh in on the proposed language. If the site plan review or special permit language for small-scale ground-based solar arrays is left in, I expect that there will be proposed amendments before Town Meeting. I hope that we can avoid that scenario.

Thank you all for your efforts on this important bylaw, and thank you reading and considering my comments.

Regards,

Stephen Frail
Chair, Climate Action Planning Committee

MEMORANDUM

TO: Select Board
FROM: Kate Fitzpatrick, Town Manager
Myles Tucker, Support Services Manager
CC: Katie King, Deputy Town Manager
David Davison, Deputy Town Manager/Director of Finance
SUBJECT: Town Charter and By-Law Review – Peer Study and Proposed Course of Action
DATE: December 13, 2023

Background

The Town of Needham Select Board established a FY2024-25 goal to “[e]stablish a process to do regular by-law and charter review updates.” The Town currently does not have policy, by-law, or charter requirements to review the Town Charter or By-Laws on a regular basis. As a result, updates have occurred in serial and resulted in occasionally unwieldy, dated, or contradictory content remaining in critical documents. This can lead to both administrative challenges – like those addressed in the recent non-criminal disposition warrant article – and potential missed opportunities to amend these documents to reflect contemporary governance structure and community needs.

The establishment of a policy mandating a periodic review of either or both the Town By-Laws and Town Charter would help alleviate the aforementioned concerns and improve the clarity of core documents.

Peer Community Study

Many Massachusetts communities have language included in their charter, or otherwise spelled out in by-laws or policy, that require a periodic review of their charter and/or by-laws. In a study of 34 communities across the Commonwealth, 21 communities have such a policy. Of these, nine review only their charter, three review only their by-laws (or ordinances), and the remaining nine review both.

15 communities that review their charter do so on a ten-year basis, while the other three review every five years. Of the 12 municipalities that review by-laws, three review on a ten-year basis, six review every five years, one reviews annually, and two require review but do not specify a timeframe. For communities that study both documents, some choose to stagger the studies (e.g. charters reviewed on years that end in “0” and by-laws reviewed in years that end in “5”).

A vast majority of communities that review these documents form special committees to do so. Only two – Holliston and Wellesley – do not, leaving review to the Town Administrator and Select Board, respectively. Of note, these two communities are the only two that require review without a specific timeframe.

Relative special committees were formed to review charters and by-laws in the other 19 communities, appointment authorities vary. Six designate the Select Board full appointment authority, while two

delegate this role solely to the Moderator. Four municipalities that review both the charter and by-laws split these authorities, with the Moderator appointing the charter review committee and the Select Board appointing the by-law review committee. An additional six have committees with joint appointments, from sources to include Select Boards/Councils, Moderators/Mayors, School Committees, Planning Boards, and other elected bodies. One community does not specify the appointment authority. Two municipalities specifically require certain residents to be appointed – Hopkinton requires certain elected officials to sit on the Committee, while Plainville requires two members who do not serve of any other Town body to be appointed.

Trends in committee requirements include appointment following a Town Meeting, consideration of appointment of outside counsel if deemed necessary by the Select Board, hosting of public hearings, and publication of a draft report with enough time to include proposed changes in the warrant of the Town Meeting one year from its inception.

A chart summarizing the peer community study is attached as Appendix A.

Proposed Course of Action

There is a vested good governance interest in ensuring that both the Town Charter and Needham General By-Laws are accurate and up to date with the desires of the community, as well as the greater policy environment at the state and federal levels. Given this, a scheduled review procedure for both documents should be established. Such a process should be introduced into the Town Charter. This would necessitate a vote of Town Meeting to approve a Charter amendment.

To develop the contents of such an amendment, the Town should establish a working group consisting of interested parties. This group would need to address topics including, but not limited to:

- Timetable/frequency of the review(s);
- scope of the review(s);
- the committee/body responsible for the review(s);
- if establishing a new committee, the appointment authority/authorities; and
- deliverables/required actions of the reviewing committee/body.

Such a working group should include, at a minimum, individuals and representatives from the following bodies/entities:

- Town Moderator
- Town Clerk
- Select Board
- Planning Board
- School Committee
- Town Counsel
- Town Manager

In order to place an article on the 2024 Town Meeting Warrant, the working group should be constituted in January and complete its work in March.

Appendix A – Peer Community Study Summary

Town/City	Policy	Charter/By-Law	Charter Reference	Notes
<u>Abington</u>	Y	Both	Charter 7.8, Bylaw 1.11	Charter: every ten years, appointed by Moderator. By-Law: every five years appointed by SB
<u>Acton</u>	N	-	-	-
<u>Arlington</u>	N	-	-	-
<u>Bedford</u>	Y	Both	Charter 9.4	Charter: every five years, appointed by SB. By-law: every ten years, appointed by SB
<u>Belmont</u>	N	-	-	-
<u>Braintree</u>	Y	Both	Charter 8.5	Charter: every ten years, appointed by Mayor and Council President. By-Law: every five years, appointed by Mayor and Council President.
<u>Brookline</u>	N	-	-	-
<u>Burlington</u>	Y	By-law	Charter 1.1	Annual review, appointed by Moderator
<u>Chatham</u>	Y	Charter		Every 5 years, appointed by SB
<u>Danvers</u>	N	-	-	-
<u>Dedham</u>	Y	Both	Charter 7.2	Every 10 years (Charter on 0, Bylaws on 5), appointed by SB
<u>Dracut</u>	Y	Both	Charter 9	Every ten years, appointed by SB. Additional committee every five years to study the "working of Town Government" to inform By-law review
<u>Dover</u>	N	-	-	-
<u>Holliston</u>	Y	By-law	Appendix 1, Sec 6F	Town Administrator responsible for reviewing bylaws
<u>Hopkinton</u>	Y	Charter	Charter 8.2	Every ten years, seven members appointed by committee consisting of an SB member, School Committee member, FINCOM member, Moderator, and Clerk.

<u>Lexington</u>	N	-	-	-
<u>Marblehead</u>	N	-	-	-
<u>Marshfield</u>	Y	Charter	Charter 9.6	Every ten years, appointed by SB
<u>Mashpee</u>	Y	Charter	Charter 7.7	Every ten years, nine members appointed by various authorities (2 each by SB, FINCOM, and School Committee, 1 by PB, and 2 by Moderator).
<u>Melrose</u>	Y	Charter	Chapter 9.5	Every ten years, nine members appointed by mayor (four), City Council (four), and School Committee (one).
<u>Natick</u>	Y	Both	Charter 7.6	Every five years, appointed by Moderator
<u>Newton</u>	N	-	-	-
<u>North Andover</u>	N	-	-	-
<u>Pepperell</u>	Y	Charter	Chapter 7.6	Every ten years, nine members appointed by various authorities (Regional School Committee (one), Housing Authority (one), Library Board (one), Council on Aging (one), Moderator (one), FINCOM (two), and SB (two)).
<u>Plainville</u>	Y	Charter	Charter C.7.1	Every ten years on "5", seven members appointed by various authorities (SB (three), FINCOM (2), and Moderator (two))
<u>Randolph</u>	Y	Charter	Charter 8.1	Every ten years on "0"
<u>Salem</u>	N	-	-	-
<u>Salisbury</u>	Y	Both	Charter 7.6	Charter: every ten years, appointed by Moderator. By-laws: every five years, appointed by SB.
<u>Shrewsbury</u>	N	-	-	-

<u>Stow</u>	Y	Both	Chapter 7.7	Charter: every ten years, appointed by Moderator. By-laws: every five years, appointed by SB
<u>Webster</u>	Y	Both	Charter 7.7	Charter: every ten years, appointed by Moderator. By-laws: every five years, appointed by Moderator
<u>Wellesley</u>	Y	By-laws	Chapter 19.14	SB responsible for periodic review.
<u>Weston</u>	N	-	-	-
<u>Westwood</u>	Yes	Charter	Charter 12.3.1	Charter: every ten years (or sooner), appointed by SB.

Town of Needham

Town By-Law & Charter Review Working Group

Committee Charge

Type:	Ad Hoc
Legal Reference:	Select Board Goals
Appointing Authority:	Select Board
Number of Voting Members:	Seven (7)
Term of Appointment	2024 Annual Town Meeting or until proposal is included in a Town Meeting Warrant
Special Municipal Employee	Yes
Staff Support	Town Manager/Designee; Town Counsel

Members	Year Appointed	Term Expiration	Type

Composition: Seven (7) voting members:

- Two (2) members of the Select Board
- One (1) member of the Planning Board/Designee
- The Town Moderator/Designee
- The Town Clerk
- One member of the Finance Committee/Designee
- One member of the School Committee/Designee

Purpose: The Select Board adopted a goal to establish a process for the Town to conduct regular by-law charter review updates (Goal #6 initiative #40).

Charge: The Town By-Law and Charter Review Working Group will:

- Review Town By-Law and Charter Review Procedures in other communities.
- Develop recommendations relative to the process by which such a review should be conducted in Needham.
- Draft a Home Rule petition for inclusion in the 2024 Annual Town Meeting Warrant
- The Working Group is scheduled to meet at 5:30 p.m. on the following dates, if both are necessary.
 - February 7, 2024
 - February 21, 2024

Charge Adopted: January 9, 2023 **Charge Revised:**

SME Status Voted: January 9, 2023

NEEDHAM PLANNING BOARD MINUTES

October 3, 2023

The Needham Planning Board meeting, held in the Charles River Room of the Public Services Administration Building and virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, October 3, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert and Ms. McKnight, Planner, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Block noted this is an open meeting that is being held in a hybrid manner in public and remotely per state guidelines. He reviewed the rules of conduct for all meetings. This meeting includes one public hearing and public comment will be allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

7:05 p.m. – Major Project Site Plan Special Permit No. 2023-03: Neehigh LLC, 93 Union Street, Suite 315, Newton Center, Petitioner (Property located at 629-661 Highland Avenue, Needham, Massachusetts). Regarding request to demolish the five existing buildings on the property and build a single two-story 50,000 square feet Medical Office Building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) spaces. Please note: This hearing has been continued from the September 5, 2023 Planning Board meeting and will be further continued to the October 17, 2023 Planning Board meeting.

Mr. Block noted this meeting will be continued. The Board asked the Petitioner to agree to engage a third-party peer reviewer for a traffic assessment at the last meeting. GPI has prepared a summary of comments. The summary has been sent to the Petitioner who is reviewing the report with their traffic engineer. The Petitioner has requested a continuance of the hearing to the 10/17/23 meeting.

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

VOTED: to continue the hearing on Major Project Site Plan Special Permit No. 2023-03 to 10/17/23 at 7:30 p.m.

Appointment:

7:05 p.m. – Needham Housing Authority – discussion about Linden/Chambers Redevelopment Project.

Reginald C. Foster, Chairman of the Needham Housing Authority, noted that in 2019 the Needham Housing Authority completed a Facilities Master Plan (FMP). There are 336 affordable units in various stages of being worn out. The FMP identified are 5 major modernization and redevelopment projects. In mid-2021 the Preservation and Restoration Initiative (PRI) was created/launched, and the Cambridge Housing Authority was hired as a consultant. The first two projects are 1) the redevelopment of the 152-unit Linden/Chambers and is a top priority; and 2) the second project is an update the complete renovation/modernization of the Seabeds and Cook units, and the third project, next year which won't start before 2028 at the earliest, is the redevelopment of the High Rock estates remaining 60 bungalows. (In 2005-2009, the first twenty bungalows were redone to duplex units.) In January 2023, Bargmann Hendrie+Archetype Inc. (BHA) was hired to lead the Linden/Chambers project. The Conceptual Design was completed in June 2023 and the applicant came to and was presented the Planning Board and received at the June 20, 2023 meeting for input and guidance. The project is has now in complete the schematic design phase. This The Schematic Design will be presented tonight along with the required zoning relief, and a community engagement plan will be discussed.

Dan Chen, lead architect, noted there have been several updates based on the schematic many changes since the conceptual designs. Most are cost driven. Originally in the Phase 1A/1B During the Conceptual Design there were 144 1-bedroom units to be built in. Originally there were 2 identical U shaped buildings, both U shaped. There This conceptual design required were 42 elevators in each and 4 stairwells. There will be 3 phases. In the Schematic Design, Phase 1A and 1B will be have 136 units, including 8 two bedroom units, and only needs 2 elevators and 3 stairwells. Originally there were 2 buildings, both U shaped. There were 2 elevators in each and 4 stairwells. The Making cost reductions was also the major

driver of ~~the other~~ schematic design ~~changes~~. ~~This there is a much tighter and straight design~~. ~~t-~~The 2 buildings have been combined ~~into to have~~ a shared ~~a common~~ core ~~design~~; and ~~t-~~The two amenity and utility room spaces have been combined into one ~~roomspace~~. ~~The applicant is looking to produce the most~~By having 4 stories, besides having a cheaper, more compact footprint while still retaining approximately the same number of units, there's the added advantage of increasing ~~with the most~~ open space by 50% over the Conceptual Design ~~and maximum amount of units~~. Even though a 4th story has been added, it's only 2 feet higher than the 3 story 51' height proposed in the Conceptual Design. ~~The height of the buildings has been reduced~~. This has been achieved by redesigning the roof and lowering unit ~~The ceilings were from 9 feet and will now be to 8 feet in each apartment. This is a much tighter and straight design. He discussed the other benefits advantages of in the current propose Schematic Design~~. A major benefit was that the distance setback from Linden Street ~~was has been increased from 25 feet to >80 feet; tenant and the height was 51 feet to the ridge of a pitched roof, but. Mr. Chen stated today's design is 80 feet back from Linden and the height has been increased to 4 stories rather than 3 stories. Parking is closer to the front door and a buffer are in the front of the building and there are 136 units rather than 144 units. There will be 128 1 bedroom units and 8 2 bedroom units. There will continue to be 144 bedrooms with a 0.5 parking ratio; and a 17,000 sq. ft. building footprint reduction (FAR 0.42). There will be 2,000 square feet in a center core area.~~

Mr. Alpert asked if ~~Schematic Design~~ Phase 2 would be the same ~~as the Conceptual Design~~. Mr. Chen stated it would be. Pulling the building back to 80 feet makes a significant buffer. The concept design was for 3 stories with 9-foot finished ceilings and a 15-foot ceiling in the attic totaling 51 feet. The schematic design is 4 floors with 8-foot ceilings and a 10-foot attic ceiling totaling 53 feet. A 4th floor has been inserted into the attic space. Architecturally it appears flatter than the 3-story. The project was 15,777 square feet into the ~~wetland~~ buffer zone. With the schematic design, the infringement into the buffer zone has been reduced. There is nothing in the design within the 25-foot no-disturb zone. Mr. Alpert asked if there is any more room to push the building back toward Maple Street. Maybe 15 or 20 feet without disturbing the wetlands. Mr. Chen stated it is very tight. The building is outside the 25-foot buffer which is the reason the building is twisted and angled the way it is. Many versions of this have been studied. The applicant wanted to make this as compact as possible to save cost. The project is looking at 107,000 square feet but it started at 122,000 square feet. Mr. Foster stated the Conservation Commission is pleased with the significant improvements. A full ~~Development Review Team~~ ~~meeting~~ ~~review~~ was done with all town departments. The Fire Chief wants to be able to drive a fire truck around back.

Mr. Chen noted the Phase 1 ~~A/1B~~ building setback is 88 feet and ~~then~~ a 5-foot ~~buffer to the~~ sidewalk. There will be a strip of green space in the back of Phase 1B. The Fire ~~Department~~ needs to get to the back of both sides with no need to circle around. Mr. Foster ~~will check that that a review meeting with the FD had been scheduled~~. He noted ~~this has at that the buildings will be~~ fully sprinklered ~~system~~. The project will go a little bit ~~into with~~ the 50' ~~wetland~~ buffer zone in Phase 1B. Mr. Alpert noted a little green space in back of the building. Mr. Crocker asked if the residents have access by a back door. Mr. Chen stated there is no rear access but a common access out of the stairwell. A tree survey was done so the applicants are aware of the condition of the trees. The concept design had 252 units with 3 and 4 stories with the 4th story at 62 feet with a pitched roof above. He showed the existing 152 studio units.

Mr. Block asked how many one bedroom units are there currently. Mr. Chen stated ~~at there are currently 152 units, all are studios~~. In the Concept Plan Phase 1A and 1B ~~were to be~~ separate buildings. The schematic design in Phases 1A, 1B and 2 has 247 units with 4 stories. The total square footage went from 215,600 square feet to 201,800 square feet with a 13,800 square foot redirection. There will be 130 parking spaces. Mr. Alpert ~~asked for clarification as to whether~~ Phase 2 is the same as it was in June. Mr. Chen noted it is, with a lower ridge height. There are no immediate abutters. Mr. Block stated there is no rendering ~~of the view~~ from Maple Street with the trees. Mr. Chen noted that can be done. The trees help to shield the building from Maple Street. There are 2 green spaces on site. On the left is a larger green space. That green space will be developed into an amenity space for residents with gardens, a seating area and recreation. Mr. Crocker asked if there will be basements. Mr. Chen noted there will be no basements and all storm water will be retained on site.

Robert Smart, attorney for the applicant, stated a retention basin is not something that is part of this project or being proposed for this project. The applicant just has land available should the Town want to use it. Ms. McKnight stated she lives in a 105-unit housing ~~project development, and-~~ ~~S~~ she is interested in how people will move around. She asked where the 2 elevators in Phase 1A and 1B are located. Mr. Chen stated the elevators are located in the center. Ms. McKnight commented ~~that all~~ the residents would walk from the elevator to their units. Mr. Chen stated it is 190 feet from the elevator to the end unit. They tried to minimize that distance. If the building was 3 stories, there would probably be another 100 feet to the end unit. Ms. McKnight asked where the community room ~~would be~~ located. Mr. Chen stated the community room is

in the middle when people walk in on the 1st floor. There are still some inefficiencies in the plan, and it may still be tweaked. All central services are in the middle.

Ms. McKnight stated having the common room right there in the center makes a difference to the community. She noted ~~50% of~~ the units are to be affordable at 50% of area median income, but it was said the 2-bedroom rent would be higher. Margaret Moran, of the Cambridge Housing Authority, stated the rent is by number of bedrooms-sizes. A 2-bedroom rent would be around \$400-\$500 more per unit per month, ~~but-~~ ~~The~~ the rent paid by the occupant is based on income. The unit would still be affordable, but the amount of the subsidy would need to be greater. There is a demand for 2-bedroom units for people who need care or assistance. Ms. McKnight asked if the attic space was usable and was informed it was not. She asked how many existing units are there. Ms. Moran stated there are 152 studio units averaging 400 square feet. Ms. McKnight asked where a resident-~~he~~ would go for green areas for sociability. Mr. Chen noted there is a small lounge area by the lobby and a large green space outside. This is still being worked on. Ms. Moran stated there would be the ability to sit in the back also.

Ms. McKnight asked if the project will comply with the ~~4~~Town's storm water management regulations and was informed it would. Mr. Block stated there is the opportunity in Phase 1A to have a path to walk to the parking lot rather than go through the lobby. Mr. Chen stated the exit is through the lobby. The Board discussed where the funds would be coming from. The project, as redesigned, saved \$10 million and went from \$65 million to \$55 million. It was noted the big money comes from the federal low-income housing tax credit program ~~local taxes~~. Some comes from debt with some ~~of~~from the Section 8 vouchers and another source is state [HCD - meaning?] which would be moved from state to federal. Mr. Chen noted 72 units will be replaced. The units are \$80,000 to \$85,000 per unit [from Executive Housing- unclear]. This is effectively a grant. The Debt Service is repayable. Mr. Block asked how much of the total cost the debt is and was informed roughly 20%. Mr. Block asked how much is the town cost? Ms. Moran noted CPA funds are budgeted to be about 10% of the total cost. Mr. Block asked if \$70 million includes all development and was informed the final details are still being worked out.

Formatted: Highlight

Formatted: Highlight

Mr. Alpert asked if the applicant was looking to get to Town Meeting in May and the timing for construction. Mr. Foster stated they would like to get to Town Meeting in May. Ms. Moran stated zoning needs to be in place, then competitive funding. They will be breaking ground in the summer of 2025 if all goes well. Mr. Chen stated it would be 16 months for Phase 1A and 16 months for Phase 1B. Mr. Alpert asked if it was \$70 million just for Phase 1A and 1B and was informed yes. Mr. Block asked the number of units in Phase 1A and 1B. Ms. Moran stated 136 units. Mr. Foster noted 111 units in Phase 2. There are still people living in Linden/Chambers. They want to minimize disruptions to existing tenants. Mr. Block asked what happens in Phase 2 if funding cannot be secured. Mr. Foster noted the 80 Chambers units can still operate. The core is Phase 1.

Mr. Crocker noted the common space. [This was 2 buildings and now one building with 1,000 square feet- unclear]. Mr. Foster stated the current community room is 1,400 square feet. The Phase 1A and 1B space is a little larger than that but there are fewer people. Phase 2 will have another community room space. That is more than ~~needed-adequate with the 2 community rooms-~~. Mr. Crocker commented that it is important people have a space they can call their own or feel as if it is their own. Mr. Foster stated they are looking at the area next to 1A with the landscape plan for a large green space. Mr. Foster noted there is a net increase in green space to work in. This is much more usable and available for activities than the current green space. He feels there is tremendous potential for all kinds of different usage. Mr. Crocker noted if the applicants are thinking of gardens, they should work with the Needham Community Gardens. Mr. Foster stated there are existing garden beds and they are working with the Needham Community Gardens already. It is a very high priority to continue that.

Formatted: Highlight

Mr. Smart noted there had been talk about a new district for the zoning article creating a new district. That would put all the requirements such as use, dimensions and parking, in one place. The town has done this before with the Medical Overlay, Mixed Use 128 Overlay, Elder Services Overlay and the Highway Commercial 1 Overlay. It will be a lot easier to read if ~~there~~ is a new affordable housing district. Affordable is defined in Section 1.3 of the By-Law. Ms. Moran noted deeply affordable means subsidy, affordable means no subsidy and based on income with fixed rent. Section 8 vouchers are based on 30% of income. Ms. McKnight asked what percentage of units would be deeply affordable. Ms. Moran stated 116 of 136 units would have a subsidy attached or be deeply affordable. The others will have a tax credit rent. Section 8 eligible is approximately 20 tax credit units and affordable at 50% of income.

Mr. Block asked if the Board should modify the definition of affordable so as not to impose other restrictions. Mr. Smart stated it could be done. He would be interested in what the Board says. Mr. Block noted it is worth flagging. There needs to be clarity in the definition and significance of the definition to prevent unintended consequences. Mr. Smart feels the Board's preference is to have a definition to make all units deeply affordable. Ms. McKnight stated what is missing is the idea that 100% of the units will be affordable. She wants to be careful to include that. Ms. Newman stated senior housing, disabled or family housing is not included as a zoning requirement. Mr. Foster noted a senior age restriction and disabled was required for the existing Linden/Chambers development is by a vote of Town Meeting authorizing the conveyance of a parcel of land for the development. Mr. Smart stated an affordable housing district is being created. He wants the use to be of right subject to site plan review. Applicants should go through the site plan review process and have a posted hearing. It is a pretty expansive set of standards. Ms. Newman stated single-family and two-family residential uses are being allowed in the underlying districts. Mr. Smart stated they are not tied to that. It could be taken out.

Mr. Smart stated part of this property is in Single Residence A and the other part in General Residence. The current multi-family use is allowed by variances. This 11-acre parcel has been assembled over time. There are numerous restrictions and variances following each of these conveyances of land by the Town. Mr. Alpert feels it is a good point to have its own district and get rid of the underlying Single Residence and General Residence zoning. Ms. McKnight commented the current buildings are protected by variances. There is nothing relevant to be said about underlying or protected uses. Mr. Smart agreed. Ms. McKnight feels this need to say it does not affect variances issued by the Select Zoning Board. Those variances stay in place protecting the existing buildings as long as the buildings are there, and the new zoning is for the new buildings. Mr. Smart feels someone should speak with Town Counsel to see the best way to go. What is proposed are a series of dimensional and parking requirements. It will be important to hear what the public says.

Mr. Block asked the depth of the building and was informed it was 58 feet. Mr. Block stated if it is determined to be 3 stories and not 4 stories how much more front setback would be needed if at the 88 feet now. Mr. Chen stated it is an issue of getting light. The same density needs to be maintained. The numbers are unforgiving in today's environment. U shaped and L shaped buildings cost more. Mr. Foster stated reducing from 144 to 136 units and lopping off a floor makes it more difficult to afford. The amount of money that could be borrowed goes down fast. Mr. Smart stated a 20-foot side and rear setback is being proposed with a minimum FAR of 0.5 and a maximum of 25 units per acre. This will be about 23 units per acre. Ms. McKnight noted the proposed minimum lot area of 10,000 square feet is way too small. There should be at least 20,000 square feet minimum, which is about half an acre. The frontage requirement in the Apartment A-1 District is 120 feet and for the Apartment A-2 District (North Hill) it is 180 feet. She feels the frontage requirement should be raised.

Mr. Smart stated the maximum lot coverage is 25% and maximum height is 58 feet. He is thinking the height will actually be 53 feet but wants to leave some room. It should be a 4-story maximum. The Board discussed the half story and site plan review. They will have the Planning Director look at this. Ms. McKnight feels they should look at the site plan review section to see if it needs revisions. Mr. Alpert stated he was confused because major project is the same as minor project. Mr. Block stated Section 3.16 of the proposed new zoning should be Section 3.17. In Section 3.16.4 (c), it says "projects after site plan review in Section 7.4." He asked if it should be after site plan review is completed and decision rendered. Mr. Smart stated it could say "after completed." This was agreed.

Mr. Block noted in section 3.16.8, it mentions "performed." He asked if it should be something else. Mr. Block stated that Ms. Moran mentioned all dimensional regulations need to happen-be "by right". Ms. Moran stated in order to be eligible to apply for Department of Housing and Community Development (DHCD) money and tax credit funding the zoning needs to be in place. The project can go through the review process but not a special permit process. She stated the basic part of the zoning needs to be complete. Mr. Block would like to see some verification of that. He feels they need to include in the zoning for 2-bedrooms a restriction in occupancy for live-in assistance. Mr. Alpert asked why not have 2 elderly sisters share a 2-bed room apartment. Ms. Moran stated there could be someone under 62 who takes care of another family member under critical care. A limitation to Poccupancy by personal care attendants cannot be dictated. A caregiver may or may not be an occupant. Mr. Block wants to preserve the include deed restrictions that are now in place, prior to zoning changes. Mr. Alpert stated deed restrictions are limit occupancy solely to elderly and disabled currently. Mr. Block wants a restriction in the zoning that the residents have to be a certain age or disabled. Mr. Alpert asked why that restriction is necessary

Mr. Foster will look at current federal and state programs for deeply affordable housing and look at deed restrictions. He will propose something for the old deed requirement and propose wording for zoning By-Laws for the current reality. The

Board discussed who could actually live there. It was noted there was going to be an age restriction, but Mr. Foster stated it would be elderly and disabled, who may not be elderly. Mr. Alpert heard they want affordable and deeply affordable to comply with federal requirements. Mr. Smart stated it should be left to the Housing Authority to make the determination. All units need to be affordable or deeply affordable. Mr. Foster noted elderly housing is contemplated and what is allowable under regulations and Section 8 housing and what conforms to today's standards rather than 1958. Mr. Crocker noted someone could be disabled at any age. Mr. Foster stated their intent is to redevelop this as senior housing. There are 25 acres of NHA affordable family housing just up the hill at the High Rock Estates development. Mr. Alpert noted the sense of this Board is they do [not?] want to limit to elderly and disabled if funding being applied for would allow that.

Formatted: Highlight

Mr. Block wants to make sure zoning reflects what is intended. Ms. Moran stated they will do homework on their side and come back with a proposal. Mr. Block asked what the next steps and processes are. Mr. Foster stated there will be a resident meeting the week of 10/9 and the first of the community meetings on the 17th. There will be a 2-page community engagement plan. Ms. McKnight asked if residents will be allowed to come to the meeting. Mr. Foster stated the meetings will be open to the public. It will be held in the Linden Chambers meeting room. He noted what residents ask about is different from the neighbor's questions. He will reach out to Town Meeting members. Mr. Block stated there have been complaints about lack of notice of previous community meetings the NHA has had. He stated they need to improve the notice of the meetings. They should have a summary in the notice, email all Town Meeting members and local news would be helpful. He asked if Mr. Foster anticipates additional community meetings. Mr. Foster stated there will be a second community meeting the week of 10/23. Ms. Newman stated the applicant will be back on 11/7 with revisions. The Board discussed how many community meetings would be held and the timing of the zoning to go to the Select Board. Mr. Block would like a summary of comments made at the community meetings. There are some details to be worked out with the zoning.

Zoning Board of Appeals – October 19, 2023.

30 Wilshire Park – Jeremy & Jessica Karlin, owners

Mr. Block stated he has no business interest, but he is personal friends with the property owners. He asked Mr. Crocker to lead the discussion and he stepped outside. Mr. Crocker stated the applicant is tearing down an existing deck and putting an addition on. Ms. Newman stated the property is currently conforming with FAR and would go above the FAR from 0.37 to 0.42. That is not allowed except by variance. A non-conformity cannot be created by special permit. Mr. Crocker stated, if granted, there would need to be a requirement for all stormwater to be retained on the property. Ms. Newman stated the applicant would need to be compliant with the Stormwater By-Law. Mr. Alpert noted the non-conformity of the FAR can only be allowed by variance.

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

VOTED: to make a comment to the Zoning Board of Appeals on 37 Wilshire Park and point out the change in FAR will be non-compliant and pursuant to our By-Law can only be allowed by variance and the ZBA should make sure the addition would cover storm water management regulations.

Mr. Block returned to the meeting.

24 Webster Street – Med A. Gharsallaoui, owner

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

VOTED: with respect to 24 Webster Street, to make no comment.

Minutes

Ms. McKnight noted on the minutes of 4/4/23, page 2, the discussion with Mr. Frail, it says Ms. Espada and Ms. McKnight participated. Ms. McKnight did not participate but Mr. Crocker did. Ms. McKnight participated in the CAPC meeting. In the last paragraph the last name of Justin from Engineering needs to be inserted. On page 4, the Report, Ms. Espada stated

“that is the next generation anyway and not really the rental.” Mr. Block stated to remove the sentence. Mr. Block noted “building construction costs about 1% more.” He stated to leave that sentence as is.

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

VOTED: to accept the minutes of 4/4/23 with the red-lined changes shown and with the changes discussed.

Ms. McKnight noted on the minutes of 7/11/23, page 2, 2nd paragraph, it says “Mr. Alpert noted that any site plan modifications would be across all districts.” It would be noted under the site plan review process. The sentence will be deleted. Mr. Block noted on page 3, under Joe Matthews discussion, it says “even affordable housing would need double if not higher than median income.” Ms. McKnight stated it was part of his presentation. Mr. Block stated to leave the sentence in. Ms. McKnight noted the last paragraph, “he is open to height, setbacks and lot coverage but enforcement would be difficult.” Mr. Block stated FAR is not as relevant. The real limiting factor is height and setbacks and lot coverage. He did speak to the point of enforcement. He suggested taking out the 2 highlighted sentences. On page 6, Ms. McKnight was not Vice-Chair. That would be Ms. Espada

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

VOTED: to accept the minutes of 7/11/23 with the red-lined changes and additional changes discussed at this meeting.

Ms. McKnight noted on the minutes of 8/15/23, “some may say local housing is a commercial use.” Mr. Block stated he was referring to multi-family housing. Ms. McKnight noted on the next page “Mr. Crocker wants to see what is happening with detached ADUs.” She asked what that meant. Mr. Crocker feels it could be he wanted to see what was happening in other towns with detached ADUs. Ms. McKnight noted a reference to “this.” Mr. Block was referring to the Planning Schedule excel spreadsheet. Ms. McKnight noted in the 5th paragraph Mr. Crocker stated it cannot be regulated. Mr. Crocker stated to end the sentence at “inside space” and remove “cannot be regulated.” Ms. McKnight noted in the last paragraph there is a reference to a committee. What committee? Mr. Block stated it would be a large house committee. He noted it should be HONE rather than HOME. Ms. McKnight noted “Mr. Block wants to make sure the Housing Committee is included.” Mr. Block noted he wanted the Planning Board to participate and be on a more engaged level. He suggested striking the line in yellow.

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

VOTED: to accept the minutes of 8/15/23 with changes shown in red-line and changes discussed this evening.

Report from Planning Director and Board members.

Ms. Newman noted the next HONE meeting is this Thursday. They will be reviewing the results from the modeling the consultant has done on the recommendations in the housing plan and looking at what the model represents and what would happen ~~in terms of~~ if the ~~T~~Town changed the zoning in its commercial districts and allowed housing by right instead of by special permit. She thinks the results would show the plan allows more than an adequate number of housing units. It would be a decision of how far the ~~T~~Town wants to expand. ~~If T~~he existing zoning itself provides an adequate number of housing units to encompass the housing plan recommendations. ~~She feels it that~~ is surprising and ~~she~~ feels it would be a different conversation than what some of the Board members thought. Mr. Block would like on the agenda for the next meeting to review the direction of the HONE meeting 2 days from now. He wants the Planning Board to participate and discuss. He would like to make a comment to the HONE Committee that to achieve the goals of zoning they should allow for a much greater number of units per acre. The number needs to be higher than the base zoning would allow. Ms. Newman stated the goal here is to lay out the parameters and how it should be expanded. Mr. Block would like, on the 17th for Ms. Newman, Ms. Espada and Ms. McKnight to report on the outcome of the HONE meeting.

Ms. Newman stated she is preparing the budget. She will be asking for an additional full-time planner. Mr. Block feels the budget for studies should be increased. He wants to make sure there is sufficient funding. Ms. Newman feels they can talk about that. She noted Karen ~~Sunnarborg~~Sunnarborg is leaving. She just wants to do consulting. She will stay until Ms. Newman finds someone new. There are a lot of towns that use an agency for housing planning. She has reached out to a

couple of people she knows to see if they are interested. Mr. Crocker would like the Board to look into what the Planning Board working group did with the Tree By-Law. He understands it is the Select Board that would need to look into this. Mr. Block recommended Mr. Crocker have a conversation with Select Board members and report back. Mr. Crocker will do that and noted the Select Board is planning something later in the year to discuss trees.

Mr. Alpert noted there was a tree committee that did a lot of work, but it got scuttled and nothing happened. Ms. Clee noted the outcome was there was a draft of a General By-Law and the draft ended up relying heavily on how Wellesley did it. The Board began discussing the regulations but the vibe from the Select Board was there was a lot on their plate. Ms. McKnight commented her understanding was it may be too much work for the Tree Warden. Mr. Alpert agreed the Select Board were supporting that it would be too much work for the Tree Warden, so it was put on the back burner. He stated there is a draft By-Law but no draft regulations. That is where it needs to be picked up. The Board needs to formally approach the Select Board. This is a high priority. Mr. Crocker stated Wellesley has had a Tree By-Law for a while. Someone should reach out to them is "them" Wellesley?.

Formatted: Highlight

Correspondence

Mr. Block noted an email from Rick Myers, dated 9/18/23, regarding 888 Great Plain Avenue and an email from Joe Abruzese, dated 9/28/23, regarding the release of the Planning Board 9/11/23 Executive Session meeting minutes. Town Counsel Christopher Heep is handling that. Mr. Alpert feels it is a bad precedence to release executive session minutes. Mr. Block noted a letter from Planning Director Lee Newman to Town Manager Kate Fitzpatrick, dated 9/26/23, regarding donations to the Tree Fund for the property at 920 South Street and a notice of hearing from the Town of Wellesley regarding a zoning By-Law change. Ms. McKnight stated Wellesley wants to increase the percentage of residential units so that- No less than 20 percent would be affordable. Wellesley is going more for middle income people. Mr. Block noted additional correspondence of 2 Boston Globe articles from Reg Foster – one regarding affordable housing for seniors and the other about Boston suburbs.

Upon a motion made by Mr. Crocker, and seconded by Mr. Alpert, it was by a vote of the four members present unanimously:

VOTED: to adjourn the meeting at 10:30 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Natasha Espada, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

October 17, 2023

The Needham Planning Board meeting, held in the Charles River Room of the Public Services Administration Building and virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, October 17, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert and Mmes. McKnight and Espada, Planner, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Block noted this is an open meeting that is being held in a hybrid manner in public and remotely per state guidelines. He reviewed the rules of conduct for all meetings. This meeting includes one public hearing and public comment will be allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Discuss Open Meeting Law Complaint filed by Gregg Darish on October 11, 2023.

Mr. Block stated there was an open meeting law complaint made by Gregg Darish regarding the 9/11/23 Executive Session ~~and that~~ Ms. Espada and Mr. Alpert were recused so they will step aside. Mr. Alpert stated he would not step aside. This complaint goes beyond ~~that~~ ~~that the matter from which he had recused himself~~. He noted there was also a joint meeting before that. Mr. Block has asked Town Counsel to be present and he will represent the Board. Town Counsel Christopher Heep stated there are 2 matters ~~cited in~~ the complaint, ~~that~~ Ms. Espada and Mr. Alpert were recused from one ~~of the matters~~, but not the other, ~~yet~~ ~~He~~ would ~~them both to be recused~~ ~~them from discussion of this complaint~~. Ms. Espada and Mr. Alpert both left the room.

Town Counsel Heep stated the meeting ~~complained of~~ had 2 items – one in Executive Session and one in open session. He needs to reply with a written response within 14 days so 10/31/23 would be the last day to respond. He reviewed the complaint and would like to discuss it ~~tonight~~ and vote to have him respond to the complaint. He ran down the points of the complaint. One complaint was the meeting notice was defective as the Planning Board did not post ~~notice of the meeting~~ separate from the Select Board. Under the law a joint notice can be done as long as it provides a time to meet and an agenda of the meeting. The notice clearly stated it was a special joint meeting and when and where it would happen. That is sufficient under the Open Meeting Law. Going forward he would suggest ~~that~~ both Board's post ~~notice of such a joint meeting~~. Another complaint was ~~that~~ the 9/11/23 meeting was outside the Board's regular meeting schedule ~~and that~~ ~~No~~ minutes were issued for that meeting. ~~He~~ ~~Town Counsel Heep~~ noted there will be minutes issued for both the regular and Executive Sessions, ~~but~~ ~~Town Counsel Heep stated~~ 2 appeals remain ~~outstanding~~, so the Planning Board may be drawn back into this. He feels there should be no release of the Executive Session minutes while ~~the case~~ is still active.

Town Counsel Heep noted there is an allegation ~~that~~ the Planning Board deliberated whether to have an Executive Session outside of the open meeting. He feels the Board should authorize him to respond prior to the deadline. Mr. Block asked if any members remember this. Mr. Crocker stated he did not remember anything outside of the meeting. The members definitely did not discuss it. Town Counsel Heep stated in the open meeting part the Planning Board voted to go into Executive Session with the Select Board. ~~Mr. Block stated it was not a separate agenda item as the Board does not remember talking with anyone but Special Counsel Jay Talerman and scheduling the time.~~ ~~Unclear~~

Formatted: Highlight

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

VOTED: to authorize Town Counsel to respond to the open meeting complaint filed by Gregg Darrish on 10/11/23.

Ms. Espada and Mr. Alpert returned to the meeting.

117 Kendrick – discussion of proposed new loading access.

Mr. Block stated there were materials in the packet from Bulfinch. This is an informal discussion to add a new one-bay loading dock on Third Avenue. Attorney Tim Sullivan, with Goulston & Storrs, noted 117 Kendrick Street is subject to a special permit. There is the opportunity to make the space more desirable if a loading bay is added for use one or 2 times per week. Michael Wilcox, of Bulfinch, showed the site location and noted ~~the site~~ is just over 200,000 square feet. In 2000, it was converted to creative office space with high ceilings. There are 7 different tenants that are lab or lab related. The applicant is trying to grow that footprint. The heights of the building allow direct access to the roof. The big thing is functional space. There is a loading dock on the opposite side of approximately 17,000 square feet. Everything has to go through the amenity spaces to reach the loading dock. The lab market is competitive now. There needs to be functional and efficient space. The applicant needs to create loading into the space off Kendrick Street. The intent is to create a loading dock specifically to serve the lab area. The other loading space will still be a general dock. This will be more specialized with direct access to the lab area. Loading and service is at the existing dock. Special lab users will have specialty type of deliveries that should not go through the building.

Mr. Wilcox showed where the new loading dock will be located. He noted the building face is about 47 feet off the edge of Third Avenue and 40 feet behind the existing sidewalk on Third Avenue. There are a number of different life science tenants and differences in how deliveries are done. He noted 17,000 square feet of tenant space will generate approximately 5 to 10 deliveries per day. Amazon, UPS, etc. would go to the main dock. Only specialty deliveries would go to the new dock. There will be about 1 to 2 deliveries per week via the new dock. These delivery vehicles will be mostly refrigerated vans but they could have 30-40 foot gas trucks. Vans will be about 2/3 of all deliveries. The sidewalk will remain at the sidewalk elevation and trucks would back up. He showed the elevations with landscaping existing and proposed and noted there is a little more work to be done. There will be no ramp and he showed the queue for vehicles.

Mr. Block asked for an estimate for the number of cars [that might be backed up while a delivery truck maneuvers in??] Mr. Wilcox noted 8 or 9 cars. This will be restricted to 30 feet or less. He feels there would be no impact on traffic. The loading is almost entirely in the morning. Mr. Alpert asked if the loading dock was approximately 250 feet from Kendrick Street. Mr. Wilcox stated it is. He tried to understand gaps on Third Avenue to verify that the trucks would have enough time to maneuver. The gap is around 15 seconds. In the a.m. peak there were 72 such sufficient gaps to support maneuvering. Attorney Sullivan noted there is no change to the footprint. The dock will comply with all requirements.

Formatted: Highlight

Formatted: Highlight

Ms. Newman stated the Board will need to decide if this is a minor modification or if it needs a special permit. Mr. Alpert asked when the applicant will be filing an application with the Board. Attorney Sullivan stated he would like to do it as soon as possible. Mr. Alpert feels this requires a full hearing. There will be a curb cut and construction on the street. He feels people should have input. Mr. Block asked how long the road would be disturbed while doing work on the street. Mr. Wilcox noted the loading dock door construction would be the most time consuming and would be done from inside. Essentially a driveway is being built. Mr. Alpert stated a minor modification is not usually construction. There is nothing in the By-Law ~~for~~ regulating minor modifications.

Attorney Sullivan agreed it would be a minor project. [He contemplates projects could have design review without meeting those requirements. Not clear] There have been some minor amendments to this site. This is not much different. Ms. Newman stated these have been handled as minor amendments before. Ms. McKnight sees this as a minor. It must be approved by another Town Board because of the curb cut. She does not see this as a driveway. Given the anticipated minor use she sees it as a minor modification. She commented that Bulfinch keeps the property well maintained. Ms. Espada also feels this is a minor modification. She would like the Town Department

Formatted: Highlight

of Public Works (-DPW) to review and wants them to review the sidewalk next to the driveway. She feels maybe bollards could be put in.

Mr. Crocker stated he respects what Mr. Alpert was talking about. He does not see this as having a real impact. He feels it is minor but sees the need to go before the Design Review Board (DRB). Mr. Block noted there is nothing in the By-Law that says there needs to be a formal amendment for a curb cut. He agrees they need to market the lab space. He is inclined to regard this as a minor modification as well. The next step is to prepare an application for a minor modification and the Board can vote at that time.

Public Hearing:

7:30 p.m. – Major Project Site Plan Special Permit No. 2023-03: Neehigh, LLC, 93 Union Street, Suite 315, Newton Center, Petitioner (Property located at 629-661 Highland Avenue, Needham, Massachusetts). Regarding request to demolish the five existing buildings on the property and build a single two-story 50,000 square feet Medical Office Building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) spaces. Please note: This hearing has been continued from the September 5, 2023 and October 3, 2023 Planning Board meetings.

Evans Huber, Attorney for the applicant, stated the Town requested the petitioner to agree that the Town would engage a Peer Reviewer for traffic. Greenman-Pedersen, Inc. (GPI) conducted the traffic peer review and submitted a letter. Mr. Block noted the following correspondence for the record: an email, dated 9/26/23, from Jay Steeves for the Fire Chief, with no further questions as they are satisfied; a GPI letter dated 9/20/23; an email, dated 9/8/23, from resident Joanie Freidman regarding trash with comments; an email from Building Commissioner Joseph Prondak noting he is satisfied; a memo from the DRB noting they are satisfied and [DRB noted or Mr. Block noted?] the Town Engineer referred traffic to an outside firm with comments. Mr. Block stated he would like a letter from the Police and Town Engineer. He asked Mr. Huber if there were any non-traffic or site circulation issues that are unresolved at this time. Mr. Huber is not aware of any.

Formatted: Highlight

Mr. Block noted they received some comments from abutters who live in the nearby condos. They raised several issues [as a courtesy?] that may have an adverse impact such as trash. The Health Department has noted some conditions such as pest control. He [Health Department or Mr. Block?] would like to see the trash disposal area on the side that abuts the other commercial properties. Mr. Huber stated the dumpster is located next to Cross Street. The pickup mechanism would be Arbor Street and across the back to pick the dumpster up. It would not go down Cross Street. Moving to the middle of the property would work best. It was noted one comment was to show truck turns for trash pickup with the trash in the current location. It is the same movement if put in the middle. It would impede on nearby residents if in the opposite (Cross Street) corner in the back. Ms. Clee clarified that the trash disposal area this is on the upper level of the parking garage.

Formatted: Highlight

Formatted: Highlight

Mr. Alpert stated a concern was raised with the time of trash pickups. Some are at 4:30 a.m. Colby Cavanagh, of Mauge DeStefano Architects, stated in order to move the dumpster location it would affect parking spots. Currently the project meets all requirements. Mr. Block stated to move to the extent possible is reasonable. Ms. McKnight noted the DRB said plans show no light will transmit beyond the property. She noted that ~~the~~ Trip Advisors parking garage was highly lit. She wants to make sure there is a condition in the decision that parking areas beside and under the building are not overly lit. Ms. Cavanaugh stated the DRB was satisfied with the lighting. There are louvers in the details that would block light.

Mr. Block noted parking spaces on Cross Street are for occupants and guests of [Gateway??] the condominium abutting Cross Street and Cross and Arbor Streets are private ways. He wants to make sure the tenants' employees and patients are not using these private spaces. Mr. Huber stated currently there is closer access to parking off Cross Street adjacent to the building, so people would park there to go into the building. It would not make sense with the proposed plan to park along Cross Street which is further away from the building entrance.

Formatted: Highlight

~~Mr. Huber stated currently there is a building closer to Cross so people park there to go into the building. It would not make sense with the proposed plan to park there which is further away.~~

It was noted there is an electrical pole across the street. An abutter asked if that pole would be removed and electric put underground so when it gets hit they do not lose power. Ms. Cavanaugh stated that was something the applicant wants to do but they have to work with Eversource. Mr. Block is not sure the Board has the authority to require that as a condition. He asked how long from demo to completion and was informed 18 months. Ms. Cavanaugh stated ~~the site~~ will be constantly watered down during construction. Mr. Block stated the Board could require a sign that says for any problems contact the supervisor with a name and number.

Steven Sussman, of 30 Davenport Road, noted his concerns. The landscaping will be tree heavy and set back as far as possible. He lives behind the insurance company directly across the street. Lighting is very intrusive with the other buildings. He suggests using light ~~button-blocking~~ shades for the offices. There is HVAC noise in the neighborhood. The applicant could put in built in buffers that minimize noise and exhaust away from the condos. He commented that this area gets a lot of light and noise pollution. A comment was made that motion detectors are usually put in buildings now, so they are not lit constantly. The Board members discussed lighting and shades. Jodie Zussman, of Boston Development Group, noted the applicants could do something with shades. Mr. Block stated that would be a voluntary condition. The building will meet the state standard for noise. The site plan changes were reviewed.

Ms. Zussman noted the architect's parking layout plan. They were asked to put the dimensions of all parking spots and label the patient drop off, pickup, elevator and trash areas. She put a chart on the plan and showed the spaces on each level. She stated the layout has not changed. Just the dimensional labeling. VHB also provided to GPI the circulation for garbage trucks, delivery vehicles and Fire access. Mr. Block noted the Fire Chief was satisfied and asked if GPI had any comments. Ms. Cavanaugh stated one concern is how close the parking-garage driveway is to Highland Avenue on the north side. She looks forward to looking at the revised traffic study but would like them to look at a one-way circulation on the north side to have people come out on the south side. She feels it is an idea worth exploring.

Jeffrey Dirk, of Vanasse & Associates, stated they are looking at disbursal and trying to balance traffic. The goal is the disbursal of the ~~traffietraffic~~, and it is a valid issue to go back and look at. Ms. McKnight ~~noted~~ mentioned that Joanie Freidman's email noted the steep slope at Cross Street. She is concerned with cars coming out of the garage and taking an immediate turn with the steep-large slope. She asked if there is a conflict with having the exit there with the slope right there. Jon Cocker, of Mauge DeStefano Architects, noted that is an existing condition with the existing grade. Trucks currently use this exit with the slope. Mr. Block noted trucks going through Putnam Street and into the condos area is totally disruptive. He asked if the traffic could be navigated around the building to Arbor Street. Mr. Cocker showed the potential plan for the upper deck. He noted cars can come in and out from Cross Street and in and out from Arbor Street. Ms. McKnight asked if the exit from the upper level was only to Arbor Street and was informed it was.

Mr. Block noted trucks only come in and out on the upper level. His sense from the Board is there is a strong preference to recirculate so the exit is on Arbor for all vehicles and augmented by signage that no one goes into Putnam Street. Mr. Huber stated it is clear, for the residents in the condos, this is a primary concern. The applicant has thought about mitigations, signage and no right or left turn. If the residents want, ~~they~~ applicant could put a speed bump in. It might be helpful to have a provision in the leases that tenants need to tell the employees they are not allowed to use Putnam Street for any purpose. Mr. Block wants all vehicles to enter through Cross Street and exit through Arbor Street. Ms. McKnight stated Putnam Street is a private way. The street that connects Putnam to Highland seems to be only a condo driveway. The Board needs to be careful. They cannot encourage people to trespass on a private way.

John Diaz, of GPI, noted the reason they are looking for a one-way entrance off Cross Street is a safety operation. There is not enough room to get in the lane to make the turn. He feels it would be a zip across and someone coming out of the garage would [not?] be seen. He is concerned with a conflict of vehicles exiting. Arbor is a 2-way entrance/exit. This is only on the top level. He feels Cross should be an entrance only. They are concerned with movement at the driveway at Cross because it is so close to Highland Avenue. Mr. Crocker stated it was worthwhile to take traffic off Cross and there needs to be signage. Mr. Diaz noted the parking is 2 levels that are not connected. The 1st level can still go out and go to Cross. They are not forcing traffic to Arbor as they are just talking about the 2nd deck. Cross Street is an entrance only and not an exit for the upper deck. Ronald Greenwald, of 615 Highland Avenue, noted people living on Putnam Street are not allowed to use the condominium driveway to connect to Highland Avenue to exit. They have to go down to Cross Street.

Formatted: Highlight

Ms. McKnight stated there are 3 2-family homes on Putnam Street that are not part of the condominiums. They do not have access through the condo driveway and have to go to Cross Street. Ms. Cavanaugh noted just the entrance into the parking garage is one-way; and not Cross Street is not one-way. Walter Tennant, of 605 Highland Avenue and a Trustee of Gateway Condominium, noted [with Putnam out through the lower driveway unclear] there is an 80 second light to get onto Highland Avenue. There could be a 3 or 4 car delay wanting to go to Highland Avenue. People will take the quicker left on Putnam to avoid the queue. Mr. Diaz stated the exit onto Cross is being eliminated so there will not be that queue. There will be exiting onto Arbor from the top level. Howard Goldman, from the Gateway Condos, commented this is setting people up to go through the private property. Even if there are signs, how do you enforce that? What is the enforcement mechanism? Ms. McKnight noted Ms. Friedman's memo suggested an electronic gate could be at the condominium driveway after the 2-families so cars can only go to Highland via Cross Street and would not be able to take a right on/off Putnam to Highland Avenue.

Formatted: Highlight

Alan Friedman, of 71 Putnam Street, is concerned that signage would not eliminate the problem. It is not practical. He asked what is Plan B when this does not work. Having a gate at the Putnam and Cross intersection is a possibility to look at. The occupants of the 2-families use Putnam Street. This would allow UPS and others to back up and turn around. Mr. Alpert asked who plows the snow on Putnam and was informed it was private. Mr. Alpert is not sure people on a private way can put a gate to prevent the town from having access such as the Fire and Police. Mr. Block stated dispatch would have the access code.

Mr. Sussman stated the people making the decision do not know the neighborhood. He commented they are making a mess. Cross Street should be one-way in only. Arbor Street has no one living there and is easy access to Highland Avenue. Taking a left out of Cross Street to Highland Avenue is impossible. The dangers are on Highland Avenue. Speed is an issue there. How many people are going to take Mills Road as a cut through? Signs can be put up but they do not work; special permits given are not enforced and speed bumps would not deter people. Putnam does not go through to Webster Street. Mr. Huber noted it seems possible to set it up so all traffic has to exit on Arbor. It would make the queues longer but would solve problems on Cross Street. They will look into it.

Mr. Block stated he wants to get into the other elements in GPI's letter. Ben Daniels, of 5 Sagem Road, noted it was talked about with the Muzi project and they are still waiting for signage at Mills and Utica Roads. The 1st step of enforcement is acting. He is not sure who to talk to about that. He hopes the Planning Board could help facilitate that. Mr. Crocker feels the Traffic Advisory Committee would be a reasonable place to start. Mr. Daniels stated the name of the Planning Board is Planning and not reaction Board. Traffic issues will get worse and there is no plan. Things are pushed through, like Muzi, against people's thoughts and wishes. There is no overall plan for dealing with traffic on Highland Avenue. He is not criticizing but the Planning Board needs to plan. Betsy Zisi, of 615 Highland Avenue, walks her dog and is concerned for her safety. People park on Putnam. The entrance is near the top of the hill on Cross Street and she sees a conflict.

Mr. Block noted this will be explored by the traffic engineers. In their response, dated 10/10/23, a catalogue of outstanding issues was given to GPI. Adrianna Santiago, of GPI, noted outstanding issues include site access and

technical comments regarding new traffic counts done a couple of weeks ago that will be addressed in an updated traffic study. Mr. Dirk stated they need to prepare an updated traffic study with new study information. The new traffic counts are lower than pre Covid and will be provided to GPI. Mr. Block asked when the report will be completed and was informed next week. Mr. Block feels there should be a revised analysis and review by the 11/7/23 meeting. Mr. Greenwald stated the Board needs to look at all the sites together – Muzi, this site, Oak Street and Wingate as it is adding a floor.

Ms. McKnight feels the additional traffic report should have comments reviewed again and responded to by the Police Chief. It was noted [where, when, by whom? – delete?], historically, there was not really traffic on Cross Street. Deana Krieger, of 7 Utica Road, has lived here for 18 years on the corner of Highland Avenue and Utica Road. The most important thing Mr. Sussman said is a lot of people do not really know what goes on here. Every day cars whip through their neighborhood. She is pro-development but requests the conversation be elevated to address the fast cul-de-sac cut through traffic. Cut throughs happen every day. There needs to be a way to help the residents feel better about all the projects in the area. She requests this be a priority. She invited all to come to her house to see the cut through traffic.

Upon a motion made by Mr. Crocker, and seconded by Ms. Espada, it was by a vote of the five members present unanimously:

VOTED: to continue the hearing to 11/7/23 at 7:00 p.m.

The Board took a brief recess.

ANR Plan – 969 South Street LLC, Petitioner (Property located at 969 South Street, Needham, MA).

Mr. Block noted this will be subdivided into 4 buildable lots in the Single Residence B District. The plan is compliant. Lot 31 on the site plan has a 25-foot wetland buffer. He asked if it is allowable to put a driveway over a 25-foot buffer. Ms. Newman stated the applicant will need a permit from the Conservation Commission. The only issue for the Planning Board is whether they meet the zoning and they do. Ms. McKnight asked if there is an issue that the lot needs to have actual access on South Street. Ms. Newman stated they can physically drive onto the property. The people next door would not grant an easement for them to drive on their property so the applicant had to put the driveway in the 25-foot buffer. Mr. Alpert stated when he was on the Conservation Commission they could not deny access or it could be considered a taking so they would allow applicants to put the driveway in the 25-foot buffer.

Mr. Crocker stated this lot does not exist right now so it cannot be approved because the applicant does not have access to it. Ms. McKnight stated they cannot deny it. Mr. Alpert noted all the Board has authority to do is look at the frontage. If it conforms the Board cannot deny ANR.

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

VOTED: to endorse plan of land subdivision Lot 14, Land Court Case 2417-Q, creating 4 lots as subdivision approval not required at 969 South Street.

Request to extend subdivision plan submittal: 920 South Street Definitive Subdivision: Brian Connaughton, 920 South Street, Needham, MA, Petitioner (Property located at 920 South Street, Needham, MA).

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

VOTED: to approve the request to extend the period of presentation of the Plan through and including November 15, 2023.

HONE Advisory Group Status Report.

Ms. Espada gave an update. The HONE Advisory Group is meeting tomorrow night at 7:00 p.m. There was a kick-off meeting that looked at different scenarios. The meeting tomorrow will recap the minimum requirements for modeling. She has not seen it yet. Ms. Newman stated the revised [what?] went out to the HONE Committee and will be discussed tomorrow. Mr. Block stated there was a difference in the results. Initially it modeled the existing conditions provided in the Mixed-Use concept. The Industrial District was taken out. Housing is allowed at the multiple family level as of right. Existing multi-family is allowed in the Apartment District, General Residence, Business District, Avery Square District and the Hillside Avenue Business District. That is around 1,200 units. This is a starting point.

Formatted: Highlight

Ms. Espada noted they need to figure out how it is moving forward with the tweaks in different areas. She thinks there is an education piece. People do not understand the density that is allowed. Ms. Newman stated the Group wants to get people's feedback on appropriate density in the different areas. Mr. Block noted the difference between what is allowed by special permit and allowed by right. Ms. Espada stated this will be looked at specifically by area. One interesting thing is certain areas of lost opportunities in the main corridor. Anything with density needs to look at the size of the lots. She feels more information is needed. [Mr. Block asked if the existing is based on by right or special permit. Ms. Newman noted it is based on a situation where multi-family houses are allowed by right or special permit. Unclear]

Formatted: Highlight

Minutes

The Board did not discuss the minutes.

Report from Planning Director and Board members.

Mr. Block noted the Board had talked about a Solar By-Law. He would like that added to the 11/7/23 agenda but there may need to be another meeting to deal with that. Mr. Crocker stated there need to be visuals of what can be achieved with solar on top of mechanicals. Mr. Block would like Mr. Crocker to get some information and pictures.

Correspondence

Mr. Block noted the following correspondence for the record: an email, dated 9/28/23, from Joe Abruzese regarding release of the 9/11/23 Executive Session meeting minutes; a letter from Town Counsel Christopher Heep, dated 10/5/23, responding to Mr. Abuzese's letter and an email, dated 9/18/23, from Heather Finnegan, of 15 Mellen Street, regarding stormwater run-off from new construction. Mr. Block feels the Town is looking for something regarding if people are affected by run-off and letting them know what can be done. Ms. Newman stated it would be the Building Department. Mr. Alpert feels the answer is it is a private matter. He feels there should be something in the Storm-~~W~~water Management but it is not a Planning Board issue. It should be the DPW or Building Department that would look at that. Ms. McKnight stated the Traffic Safety Committee is another route to go. People say there are problems with traffic but there are solutions. Mr. Block noted 2 emails from Reg Foster, of the Housing Authority, dated 9/30/23 and 10/2/23, with attachments from Boston Globe Articles.

Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:

VOTED: to adjourn the meeting at 10:25 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Natasha Espada, Vice-Chairman and Clerk

DRAFT

NEEDHAM PLANNING BOARD MINUTES

November 7, 2023

The Needham Planning Board meeting, held in the Charles River Room of the Public Services Administration Building and virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, November 7, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert and Mmes. McKnight and Espada, ~~Planning Director~~, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Block noted this is an open meeting that is being held in a hybrid manner in public and remotely per state guidelines. He reviewed the rules of conduct for all meetings. This meeting includes one public hearing and public comment will be allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website. ~~Mr. Block stated he spoke with Mr. Alpert and he will be late. He will watch the tape prior to his arrival. [suggest deleting since Mr. Block did arrive right after the Medical Office Building proponents were introduced.]~~

Formatted: Highlight

Public Hearing:

7:30 p.m. – Major Project Site Plan Special Permit No. 2023-03: Neehigh, LLC, 93 Union Street, Suite 315, Newton Center, Petitioner (Property located at 629-661 Highland Avenue, Needham, Massachusetts). Regarding request to demolish the five existing buildings on the property and build a single two-story 50,000 square feet Medical Office Building (25,000 square feet footprint) with two levels of parking (one at-grade and one below grade) totaling two hundred and fifty (250) spaces. Please note: This hearing has been continued from the September 5, 2023, October 3, 2023 and October 17, 2023 Planning Board meetings.

Mr. Block introduced the proponents. ~~Mr. Alpert arrived at the meeting.~~ Mr. Block noted the following correspondence for the record: an updated traffic study from Vanasse & Associates, Inc.; a letter, dated 11/1/23, from Adriana Santiago, Project Engineer at Greenman-Pedersen, Inc. (GPI), noting she has reviewed the updated traffic study with ~~its?~~ conclusions and recommendations; an email, dated 10/31/23, from Police Chief John Schlittler with recommendations of ~~traffic-control~~ signage; an email, dated 10/31/23, from Colby Cavanaugh, of Maugele Destefano, with updated plan sheets; and an email, dated 11/2/23, from Daniel Barton, of Maugele Destafano, with information and egress/entrance with revised renderings.

Formatted: Highlight

Evans Huber, Attorney for the applicant, noted changes were made to move the dumpster to the center rear of ~~the~~ parking garage and Cross Street was made a one way entrance only. The entry was made narrower. Near the intersection of Putnam and Cross it is being proposed to change the shape of the curbing to extend part of the way toward Cross Street to prevent a left turn. There will be a "no left turn" sign. He noted the consent of the abutters along Putnam Street would be needed to change the shape and eliminate one parking space. Mr. Alpert asked if a permanent barrier would be put there. It looks like one lane. Mr. Huber stated it is still 2 lanes. He feels no one would like to take a right onto Putnam. It is not a barrier but a white painted line. He noted only ~~vehicles from~~ the lower parking area would be using this. It would make it difficult to make a left turn.

Ms. McKnight asked what happens if the abutters do not want to give up a parking space. She understands the spaces are used by ~~condominium unit occupants~~. She asked if this could work without the parking spaces and what kind of signage would be used so people do not park on ~~Cross Street there~~. Mr. Huber feels a lot of parking is near the building. He would not think people would walk across the lot to park there as it does not make sense. There is plenty of parking closer to the entrance to the building. Mr. Alpert agreed it does not make sense to park there. Justin Mosca, of VHB, noted ~~a curbing change~~ this can be done without losing a parking space but the curb gets more squared off. This is really ~~intended to discourage~~ left turns but without ~~extending into~~ the parking space it would be less clear. Jeffrey Dirk, of Vanasse & Associates, noted they will work with the property owners to come up with something. It needs to accommodate fire vehicles. Putnam Street is a low volume road, and they want to keep that.

Mr. Huber stated the last major change is an accessible ramp has been put in for an entrance/exit. This has minimized the visual impact. Shauna Gillies-Smith, landscape designer, clarified it is a sloped walkway and not a ramp.

Howard Goldman, Attorney for Gateway Condos, thought they were eliminating exits onto Cross Street. The upper parking level has eliminated the exit onto Cross but not the lower level. This is a very congested area. He asked if this was workable. The Gateway Condos and others do like the parking spaces along Cross Street and would not want to give up any. Joanie Freidman, of 71 Putnam Street, noted she has lived here for 27 years. There were 5 small businesses and there was traffic daily with trucks breaking the curbing. She would ask them not to use the wayway, but they continued. People came through Putnam on a daily basis. She does not feel signage would work. It is a cut through and people do not care. Truck deliveries will continue to cut through. Highland Avenue traffic is difficult. People can wait 20 minutes to take a left onto Putnam onto Highland?. She asked what would happen with people trying to get out of Cross Street onto Highland Avenue. She would prefer to have traffic exit onto Arbor Street as it is on the other side of the building. Cross Street is at an incline and not flat as shown. She stated permit parking could be put in the back but she is not sure it would help.unclear]

Formatted: Highlight

Formatted: Highlight

Mr. Goldman stated Arbor is a quiet street. He feels that could be used as there is very little traffic around there. Cross is very busy. This would make a mess and people would use Putnam to avoid the mess. The exit should be to Arbor. Mr. Crocker asked why people go out Putnam rather than Cross and was informed it was easier. Mr. Goldman asked what mechanism for enforcement can there be. Mr. Huber stated deliveries are on the upper level and would be directed to Arbor to go out. The only way to leave the upper deck is to go out Arbor. People can decide which way to go out from the lower level. It is not desirable to direct 100% of traffic to Arbor. People will be discouraged from taking a left turn onto Putnam. Ms. McKnight stated there is no difference in traffic on Highland, whether exiting from Cross or Arbor, but there is a steep slope going up Cross to Highland. Putnam to Highland via the condominium right-of-way is a much more gradual slope. She is glad all trucks will be going to the upper level and have to go out Arbor. She noted she has gone out twice to look around. Mr. Huber stated they are sensitive to concerns the people on Putnam have. He feels this preserves the functionality of the people who live there.

Robert Doherty, of Boston Development Group, stated there will be far less illegal parking because there will be a garage. It would be more inconvenient to park on the road and he feels there will be a lot less of that. Mr. Crocker agreed. Wendy Xiao, of 613 Highland Avenue, noted she has small children but could not hear the conversation. Michael Notkin, of 62 Putnam Street, noted concerns with traffic. He lives at the corner, and it looks like the applicants are taking out half his front yard. His driveway is 10 feet off Cross Street. Mr. Dirks noted green space will be added, not taken away. There would be nothing done on his physical property. Mr. Notkin asked if some of the road will be taken and was informed yes. Mr. Notkin is concerned with traffic and would like to see traffic go to Arbor. He mainly wanted to see what was going on with his property. Mr. Dirks noted they will tie Putnam Street into his driveway. Sergey Svetliv, of 63 Putnam Street, has lived there since 2005. There is a lot of snow removal in the winter. Trucks slip and sometimes hit vehicles. Garbage removal is twice a week. He stated there may be a big issue with adjustments. There are water truck deliveries also. It is hard in the winter and may be an issue. He wants the Board to think about the winter.

Nancy Greenwald, Condominium Trustee at 615 Highland Avenue, has a concern with parking for 250 cars. Cross Street has a steep hill, and she feels cars will cut through the condo development. There is not a clear view from Cross to Highland. She thinks the condo association owns the parking spots along Cross Street. Ronald Greenwald, of 615 Highland Avenue, is concerned with traffic on Highland Avenue. There will need to be a detail policeman to get traffic out of the property to Highland Avenue. Emily Pick, of 12 Mills Road, lives on the other side of Highland Avenue. She is concerned with shoot through traffic. Mills Road has a lot of kids who play in the road. People will cut through these roads. The left turn out of Mills onto Highland Avenue is a disaster. She feels this will congest the entire area with doctor appointments every 15 to 20 minutes. This is a recipe for disaster in Needham Heights.

Alan Freidman, of 71 Putnam Street, stated parking exit Cross should be one way via Cross as it makes sense. Delivery trucks did not care what was said to them. They kept coming through Putnam. People will take a left and go onto Putnam. It would be a hindrance and they should not have to tolerate it. Mr. Crocker asked if they are impinging on Cross Street and making one way at that part. Mr. Dirks stated the width basically stays the same. One telephone pole will be relocated. Mr. Crocker asked if the pole is in the road now. Mr. Dirks stated it appears it is. They are working within the roadway and the road will be adjusted a little. Mr. Crocker asked why delivery trucks will only be on the upper level. Ms. Cavanaugh stated they will not fit in the lower level. Ms. Espada asked if the project is making a street in the back. Mr. Dirks stated it

will be a 2-lane driveway that connects 2 streets (Arbor and Cross) to the lower parking. Ms. Espada asked if the entrance in front is still an entrance and was informed it was.

Teresa Combs, of 7 Utica Road, works in health care and there are ambulances and EMTs frequently coming in to work on patients. She asked which entrance would the ambulance be using to potentially transport patients. Mr. Block stated, given the height, it would have to come into the upper level through Cross or come down Arbor and would park in the loading zone. Ms. Combs stated she wanted to make sure that was thought of. Ms. McKnight stated the amended traffic report, on page 3 of the summary section, has a self-selection egress. She understands that but is not clear on directed egress by parking deck alternative. What is that? Mr. Dirks stated you can only enter the upper deck by Cross Street. He noted lower level traffic could be forced to only make a left turn to Arbor and the lower deck would be forced to Cross Street but he is not recommending that be done. They are proposing the self-selection option. The Board asked the proponent to look at alternatives. With Cross being one way in, 75% of traffic will go out to Arbor and 25% to Cross.

Ms. Cavanaugh stated the entrance to the upper deck is not just from Cross Street. Cars can come in from Arbor also. They can exit only to Arbor but can enter from either street. Ms. Freidman asked how many spaces were in the lower and upper levels. Ms. Cavanaugh stated 132 in the lower level and 118 in the upper level. Mr. Doherty tends to think staff would park in the lower level given that is covered parking. It helps reduce traffic coming out onto Cross. Mr. Crocker noted the expectation that 75% of traffic will exit to Arbor and 25% to Cross. Arbor is one road and Cross is 2 roads. When exiting the lower level, if the only option driversthey will have is to go right then there will be 2 options – the steeper grade up Cross to Highland or through the neighborhood. He feels there will be a higher level of exiting traffic going to the right that will go through the neighborhood. Mr. Dirks stated employees will be told to go out through Arbor. It is easier to get onto Highland from Arbor. Mr. Crocker commented it is great they are putting the curve in at the corner of Cross and Putnam. It will reduce going through Putnam, but people still will.

Mr. Alpert noted there are a lot more standard size spaces on the upper lot and more compact on the lower level. He is always looking for standard size spaces. People will learn they are better off on the upper level with more room and more space and will have to exit onto Arbor. He suggested keeping the mix of standard spaces on the upper level. Ms. Espada asked if the applicant feels all 250 spaces will be occupied at one time. Do they need that many or is the number based on zoning? Mr. Doherty stated the number is based on zoning. This is what doctors, hospitals and user groups of this type are looking for. He feels it is usually 85% full. Ms. Espada stated some zoning has ridiculous amounts of parking. Is this what is needed and wanted? Mr. Doherty feels this is what is wanted and appropriate for this use.

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

VOTED: to close the hearing.

The Board took a 5-minute break.

Needham Housing Authority – discussion about Linden/Chambers Redevelopment Project

Mr. Block stated he wants an update on what has been accomplished since the last meeting and changes to the proposal. Dan Chen, architect with Bargmann Hendrie + Archetype, Inc., noted the schematic design for Phases 1A, 1B and 2. There will be 2 buildings in Phase 1A and 1B and 2 in Phase 2. They deviated from the concept report to economize the resources to share, reduce the footprint to maximize efficiency, reduce FAR, maximize distance to Linden Street and reduce the height. There will be 130 parking spaces, all surface on site. Mr. Block asked if it is the same parking ratio as now. Reginald Foster, representative for Needham Housing Authority, stated there are currently 152 parking spaces. The Housing Authority has assigned parking. Mr. Chen stated the ratio is lower than 0.5. Mr. Block asked if there are too many spaces. Mr. Chen noted there is some visitor parking. He thinks 130 is the right number. He added a line for minimum lot size. The changes are in red. The minimum frontage has been modified from 80 feet to 150 feet, the front yard setback was 30 feet and is increasing to 40 feet and the rest of the table remains the same.

Ms. McKnight asked why the lot coverage is so high. The existing condition is 16% lot coverage and it is going down to 11%. The call for proposed zoning allows 25% lot coverage. Why 25% and not some lower number? Robert Smart, attorney for the applicants, stated it seems like a reasonable number. Mr. Chen noted the current design is at 11% with the

consolidation of buildings. Ms. Espada asked if Phase 1A and 1B would be built separately or at the same time. Mr. Chen noted they will be built consecutively and not at the same time. The construction time frame is 16 months for Phase 1A and 12 months for Phase 1B. He noted there are 18 Linden buildings and the site is around 11.02 acres. Fire lanes have been added to access the building. He met with the Fire Department 11/1/23. There will be a new fire hydrant in Phase 1A. There are 2 existing hydrants and there will be a new one at the rear in Phase 1B. The path has been adjusted as well as waste management as to how to remove trash and where it is located. There were 2 community meetings with the abutters and the wider community. There was discussion about pushing the Phase 1B building up. Linden Street residents want it moved down for more distance from them. This is a different site plan option. Everything will conform.

Mr. Block asked if it was possible to make the building completely straight. Mr. Chen stated they do not want a 450-foot straight building. He is trying to break it up. Mr. Smart stated it is possible Town Meeting could approve a front setback of 40 feet. They cannot go back because of wetlands. He feels there is still a need to hear further from the public. There are a lot of Town Meeting members they have not met with yet. Mr. Alpert asked the actual setback. Mr. Chen stated 40 feet and 88 feet. One property is 36 feet at the narrowest point. The other option is a little more than 36 feet. unclear – are these side setbacks? The rear setback is 20 feet. ~~#~~The height is 53 feet to the roof ridge. They used the High Rock School for comparison where the highest point is 48 feet. It sets a precedence that there are large buildings nearby. Phase 1A has 20 units per floor with a total of 76 units and Phase 1B has 15 units per floor for a total of 60 units. The center is the core of the building. People will come in off Linden Street. All amenities were coordinated with Engineering and a trash room and trash chutes/shoots have been added on every floor as part of the waste management strategy. There is no basement. The mechanicals and 8 water heaters are in the fire services room.

Formatted: Highlight

Ms. McKnight asked where the mailboxes are/were. Mr. Chen stated there is a mail room between the front entry in the central area. Ms. McKnight asked if there would be staff that sit at the desk. Mr. Chen noted there would not be a receptionist. There will be offices on the top floor. Mr. Foster stated there would be counseling sessions during office hours but there will not be a permanent staff member assigned there. There will be a central laundry room. Ms. McKnight commented having community functions all together on the first level encourages friendships. She noted people get a lot of packages. Mr. Chen stated there is a mail/package room where people will go to get their packages. He noted at the 10/3/23 meeting the Planning Board asked for some additional views. He has added 2 additional views – one from the Maple Street cul-de-sac and one from the Linden Development. The views show the building is still blocked from view with a tree buffer. He showed aerial views with late Fall/Winter views. The pictures, from 10/31, show with the leaves falling the building is still shielded from view. He showed Maple Street toward the proposed building still has coverage and he showed the outline of where the building would be. He also did shadow studies with the summer solstice at 9:00 a.m., noon, and 3:00 p.m. The shadows are principally all on the property line. With the winter solstice at 9:00 a.m. shadows are on Linden Street and at 3:00 p.m. they are approaching Maple Street. The flat shadow study did not take into account the trees there. He looked for comps and found this is most applicable to the Rosemary Lake Apartments with 30 units per acre and Chestnut Hollow Apartments with around 68 units per acre. Ms. Espada asked if Chestnut Hollow is the same height as the proposed height. Mr. Chen noted ~~#~~Chestnut Hollow is 4 stories and a little lower than the proposed height. Ms. McKnight stated the Rosemary Lake Apartments are zoned for 18 units per acre.

Mr. Block noted they had 2 community meetings with 17 people at one and 16 attending the other. What comments came out of that? Mr. Foster noted people thought this was a better design, progress was made, and they were glad ~~#~~the building was moved back. The strongest feedback was about flooding in the area and if this would make it worse. He feels it may be a little better as to stormwater management. ~~They~~People see this as an opportunity to voice concerns and are getting used to a bigger building. People would like to get their relatives here who are farther away. He has not received any wild protest letters yet. Mr. Block noted there were some letters months ago expressing concern. Mr. Foster stated they are going beyond the formal outreach meetings. He was invited to Maple Street this weekend to talk about it.

Mr. Block asked, ultimately, how do we move forward? Does the Housing Authority want to be the proponent of the Article through a Citizen-s' Petition, or should the Planning Board be the proponent? The housing is a priority for the ~~#~~Town. Affordable housing is more challenging, but this is an opportunity to create deeply affordable housing. He would prefer the Planning Board become the proponent. He would like the Planning Board to convene a community meeting before the end of December with a first hearing in January and the second hearing, if needed, before the end of January or beginning of February. He asked if that gets the Article on the Town Meeting or Special Town Meeting schedule. He would like to get on the Special Town Meeting as that gives a little more time.

Mr. Crocker feels the Planning Board should be the proponent and the Annual Town Meeting is what they need to do. The Annual may be a little better and may reach the community in a different way. Ms. Espada agrees the Planning Board should do it. It shows solidarity with the Town and the zoning. Ms. McKnight stated it is fine with her if the Housing Authority wants the Planning Board to be the proponent. Mr. Smart noted the Housing Authority would prefer the Planning Board be the proponent. Mr. Alpert stated he does not think it matters [what Town Meeting?] but who the presenter is. He has no problem being the proponent. Mr. Crocker asked if the Planning Board could be the proponent, but the Housing Authority be the presenter. Mr. Foster noted it could be done either way. He feels it may be better if the Planning Board starts. The Housing Authority could be there, and they should ask Margaret Moran, from Cambridge Housing Authority, to be there as well as the other experts. He noted CPA funds for this project will be on the Warrant at the Annual Town Meeting. Mr. Block feels it will be an entire collaboration and all should be accessible. He would like this topic on the agenda for the next meeting.

Formatted: Highlight

The Board discussed the timing. Mr. Block would like the Planning Board to have a community meeting. Ms. McKnight noted the Housing Authority has had many community meetings and will be having more. She does not feel the Planning Board has time to have a community meeting. Mr. Block stated the Board would have to make time for it. If done properly it would be better attended. He would like a community meeting in December with a notice to all Town Meeting members, a notice by mail to all residents in the surrounding area and a notice on Facebook. He would like a wide reach to get as many people as possible. There will be a hearing in January. Ms. McKnight feels it is redundant. Mr. Alpert feels if the Housing Authority is already planning a community meeting and notice to all Town Meeting members there is no need for the Planning Board to duplicate it.

The Board discussed when the zoning language would need to be done and when public hearings would be held. After discussion, Mr. Block noted they would try to plan a joint meeting of the Planning Board and Housing Authority tentatively scheduled for 12/6/23. They will check the availability of Powers Hall or the Broadmeadow School. Mr. Block stated he would like to take some time to focus on dimensionals. Mr. Smart noted in Section 3.16.6, with the Planning Board suggestions, the minimum lot area was increased to 20,000, the minimum frontage increased from 80 feet to 150 feet and the minimum front setback increased from 30 feet to 40 feet. The other numbers have been seen previously. Mr. Alpert noted the FAR is 0.42 and the zoning proposal is 0.5, the units per acre is 22.5 and the proposal is 25 and lot coverage is at 11%. He asked if they needed 25% lot coverage in the proposed zoning. He feels it would go over better if the number was lower and thinks 18% would be good. Mr. Foster stated they shrunk the footprint and went up a story. To the north there are neighbors, but the building is farther away from them. The neighbors on the other side are the Housing Authority. It would be better if [it - the required setback?] was more than 20 feet on the north. Ms. Moran stated it needs to work for both buildings. Phase 2 is closer [to the rear property line?].

Formatted: Highlight

Formatted: Highlight

Formatted: Highlight

Mr. Smart stated it would be useful to hear from the Planning Board members on what they would like the applicant to look at further. They can confer and get back to the Board. Mr. Block told him to send anything they come up with to Ms. Newman and she can forward it to the members. Mr. Block asked if there will be solar or if it will be solar ready. The proponent responded that it will be solar ready. Mr. Block asked if the 58-foot height includes mechanicals. Mr. Chen stated it was 58 feet to the ridge with the mechanicals underneath. The back side of the building is flat. Mr. Smart stated there needs to be language about the mechanicals. It is not in the zoning. Mr. Alpert asked what the area is currently zoned for and does it make sense to do an overlay. Ms. Newman noted it is General Residence and Single Residence B. It needs to be rezoned and not an overlay.

Ms. McKnight stated there does not need to be a definition for multi-family dwelling as they already have that under Dwellings, Multi-Family. It should match the state Zoning Act's definition of with Multi-Family Dwellings. Mr. Smart noted in Section 3.16.6 (a) they could have a reference to Dwelling, Multi-Family. The definition is only in a few overlay districts – Needham Center Business, Chestnut Street Business and Garden Street Overlay Districts. Mr. Alpert asked why the definition is being limited to these 3 Districts. The definition should be "A building containing 3 or more dwelling units...." Ms. McKnight agreed. She asked why define site plan review in this section. There is a whole site-plan-review chapter so they do not need to define it. Ms. Newman stated there are different thresholds for different districts. If creating a new threshold there would need to be a new definition. Ms. McKnight asked why say accessory uses are allowed by right it is already in the By-Law. Mr. Alpert noted it is usually delineated by right or special permit. Ms. Newman added that delineations are by district also.

Mr. Alpert asked for clarification as to whether ~~noted~~ this is limiting occupancy to age and disability. Mr. Smart stated that is not what they are proposing. They are using the definition in Section 1.3 – at or below 80% of income and qualifying under 40B. Affordable housing refers to Section 1.3. They do not feel they need to define more than in terms of income. It is best for the Housing Authority to have some flexibility. They need to comply with federal and state guidelines and those may change over time. Ms. Newman pointed out it can always be converted. This is not a non-issue. Mr. Foster stated he has had meetings with Town Council. The restrictions are in the deed registered with Norfolk County, which ~~it~~ does not speak to disabled either. Is this a Planning Board zoning issue or worked out with non-zoning issues? Mr. Alpert stated if age and disability restrictions are not in front of Town Meeting the Finance Committee would have a problem. It ~~w~~could be in the deed and that would be in front of Town Meeting. That would take care of it.

Mr. Block would like the proponent to flag this with Town Council. He wants the applicant to make a recommendation on the benefit of doing it and the adverse reaction of it. Send it in separate correspondence to Ms. Newman and she will distribute to the members to review. Ms. McKnight stated the Finance Committee would take seriously any fiscal impact of the project.

ANR Plan – David G. and Elizabeth Sutcliffe, Petitioner (Property located at 609 High Rock Street, Needham, MA)

Ms. Newman stated the plan is compliant.

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

VOTED: to approve the ANR Plan.

Board of Appeals – November 16, 2023

Mr. Block noted there were 2 cases. One case was continued, and the Board has already dealt with that.

1688 Central Avenue

Mr. Alpert and Ms. Espada recused themselves. Mr. Block thinks this is a building permit application and not a site plan special permit application. None of the members of the Board can provide the expertise and have not been privy to the building permit application. All the members have seen is the application for the appeal of the site plan approval decision. They have no information from the Building Commissioner or Town Counsel. He does not see the Planning Board being in a position to make a comment. [Do these changes make sense?]

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

VOTED: “No comment.”

Mr. Alpert and Ms. Espada returned to the meeting.

Minutes

The Board put off the minutes.

Report from Planning Director and Board members.

Ms. Newman noted there is a HONE Advisory Group~~Committee~~ meeting this Thursday. She also noted that she has submitted the Planning Department budget to the Town Manager. She will put the full budget in the next packet for the members. She has asked for an additional Planner and additional planning funds in the amount of \$80,000 to replenish the account. She has also asked for additional administrative support.

Correspondence

Planning Board Minutes November 7, 2023

Mr. Block noted the following correspondence for the record: a letter from the Attorney General, dated 9/15/23, approving the Annual Town Meeting Articles 19, 20 and 39. They have until 11/17/23 to approve Article 18. He also noted an email, dated 10/20/23, from Assistant Town Manager Katie King regarding storm-water runoff adversely affecting the neighbors, specifically 21 Mellon Street; and a notice from the City of Newton regarding a map change. Ms. Newman noted the Engineering Department is looking at some changes to the Storm-~~W~~water Regulations to be ~~re~~ring to Town Meeting. Ms. King is on top of it.

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

VOTED: to adjourn the meeting at 10:25 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Natasha Espada, Vice-Chairman and Clerk

DRAFT

Received December 20, 2023 @10:30AM

TOWN OF WESTWOOD Westwood Town Clerk
COMMONWEALTH of MASSACHUSETTS

Ellen Larkin Rollings, Chair
Kathleen Wynne, Vice Chair
Joshua C. Ames, Secretary
Philip M. Giordano
Christopher A. Pfaff



Elijah Romulus, Town Planner
eromulus@townhall.westwood.ma.us
(781) 251-2581
Amanda Wolfe, Housing & Land Use Planner
awolfe@townhall.westwood.ma.us
(781) 251-2598
Tiana Malone, Administrative Assistant
tmalone@townhall.westwood.ma.us
(781) 320-1366

PLANNING BOARD

**NOTICE OF PUBLIC HEARING
PROPOSED ZONING BYLAW & GENERAL BYLAW AMENDMENTS**

Pursuant to Chapter 2 of the Acts of 2023, on March 29, 2023, Governor Maura Healey signed into law, an Act Extending pandemic related authorizations related to public meetings, allowing remote meeting options for public bodies through March 31, 2025. This meeting will be conducted via remote means. Members of the public who wish to access the meeting may do so by using the Webinar link below. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, for reasons of economic hardship and despite best efforts, we will post on the Town website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

The Westwood Planning Board will hold a remote public hearing in accordance with the provisions of M.G.L. Chapter 40A, §5 on **Tuesday, January 9, 2024 at 7:00 pm via Zoom**, to consider the following proposed amendments to the Town of Westwood Zoning Bylaw and Official Zoning Map, and to the Town of Westwood General Bylaws.

The meeting will be filmed live by Westwood Media Center (WMC) available for viewing on Comcast channel 6 and Verizon channel 42 and on WMC's YouTube. Those wishing to participate are encouraged to use Zoom by following the instructions below or by going to <https://zoom.us/> clicking on 'join meeting' and entering the meeting webinar ID.

Zoom Link:

<https://us02web.zoom.us/j/83750823606?pwd=MWZZOUITc0NDaFdwSzcxQ0FDZTJ5dz09>

Passcode: 980624

Or One tap mobile:

US: +13017158592,,83750823606# US (Washington DC)
+13052241968,,83750823606# US

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 301 715 8592 (Washington DC), +1 312 626 6799 (Chicago), +1 929 205 6099 (New York),
+1 253 215 8782 US (Tacoma), +1 346 248 7799 US (Houston), or +1 669 900 6833 US (San Jose),
Or US Toll Free: 877 853 5257, 888 475 4499, 833 548 0276, or 833 548 0282

Webinar ID: 837 5082 3606

International numbers available: <https://us02web.zoom.us/j/83750823606>

Interested persons are encouraged to attend the public hearing via Zoom to make their views known. You may send written comments by email to eromulus@townhall.westwood.ma.us at least three business days in advance to allow time for receipt and distribution. Final meeting agenda and zoom information will be provided on Town's calendar on the homepage 3-5 days in advance at: <https://www.townhall.westwood.ma.us/>.

Article 1: Zoning Bylaw & Zoning Map Amendments Relative to Mixed-Use & Multi-Family Residential Overlay District

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 9.9 [Mixed-Use & Multi-Family Residential Overlay District (MUMFROD)], and certain amendments to the Official Zoning Map affecting the MUMFROD; or take any other action in relation thereto.

Article 2:

Zoning Bylaw & Zoning Map Amendments Relative to Wireless Communication Facilities

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 9.4 [Wireless Communication Overlay District (WCOD)] and Section 9.7 [University Avenue Mixed Use District (UAMUD)], and/or to the Official Zoning Map, in order to permit the potential expansion of wireless communication service coverage throughout Westwood; or take any other action in relation thereto.

Article 3:

Zoning Bylaw Amendments Relative to Definitions

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 2.0 [Definitions] to revise, expand, clarify and/or illustrate the definition of various terms used within the bylaw; or take any other action in relation thereto.

Article 4:

Zoning Bylaw Amendment Relative to Zoning Map References for Overlay Districts

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 9.1.2 [Adult Uses Overlay District (AUOD) - Location], Section 9.4.2 [Wireless Communications Overlay District (WCOD) - Location], and Section 9.8.2 [Substance Rehabilitation Facility Overlay District (SRFOD) - Location] to remove specific street addresses and parcel descriptions of properties included within various overlay districts, to instead reference the Official Zoning Map, and to confirm that the location of said overlay districts are as shown on the Official Zoning Map; or take any other action in relation thereto.

Article 5:

Zoning Bylaw Amendment Relative to Accessory Apartments

To see if the Town will vote to approve certain amendments to Zoning Bylaw Section 8.5 [Accessory Apartments] to more clearly describe design requirements for Accessory Apartments; or take any other action in relation thereto.

Article 6:

General Bylaw Amendment Relative to Solid Waste

To see if the Town will vote to approve certain amendments to General Bylaw Chapter 342 [Solid Waste] to regulate the use, location and maintenance of temporary construction dumpsters at non-residential and multi-family residential properties; or take any other action in relation thereto.

Article 7:

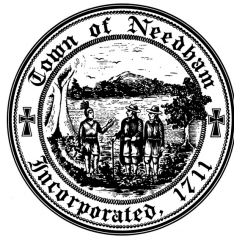
Housekeeping

To see if the Town will vote to approve certain housekeeping amendments to various sections of the Westwood Zoning Bylaw and/or the Official Zoning Map as may be necessary to correct errors or inconsistencies and to clarify such sections, which may be discovered prior to the conclusion of the public hearing, or take any other action in relation thereto.

The complete text and material are available for viewing on the Town's website under "Current Applications Link" for the Planning Board at www.westwoodpermit.org and under the Planning Division's "Zoning Amendments" webpage. Interested persons are encouraged to attend the public hearing via Zoom to make their views known to the Planning Board. The final meeting agenda and zoom information will be provided on the Town's meeting calendar on the website 3-5 days in advance at: <https://www.townhall.westwood.ma.us/>.

Westwood Planning Board

Hometown Weekly Advertising Dates: Thursday December 14, 2023 and Thursday, December 21, 2023



Help Shape the Future of Our Community

NEEDHAM'S MULTI-FAMILY ZONING

Community Workshop

Thursday, January 18th

7-9 pm

**Powers Hall, Needham Town Hall
1471 Highland Avenue, Needham
and via Zoom***

**Visit needhamma.gov/mbtac for Zoom link to participate*

Needham residents are invited to a Community Workshop to:

- Review the Town's proposed zoning districts
- Share your input



What is Multi-family Zoning?

The MBTA Communities law requires 177 municipalities in the Greater Boston area to confirm that they have a zoning district of reasonable size where multi-family housing (3+ units) is zoned for by-right. Needham does not currently comply with the law and the Town's zoning must be revised to meet the new requirements.

Stay informed

To learn more and subscribe to updates on the multi-family zoning initiative in Needham, scan this QR code or visit the project webpage at needhamma.gov/mbtac

