

NEEDHAM PLANNING BOARD

Tuesday, March 5, 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**

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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. Review of Landscaping Plan for 920 South Street Definitive Subdivision.
2. Planning Board Recommendation:
Article 1: Amend Zoning By-Law – Affordable Housing District; and
Article 2: Amend Zoning By-Law – Map Change for Affordable Housing District.
3. Minutes.
4. Report from Planning Director and Board members.
5. Correspondence.

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



RECEIVED TOWN CLERK
NEEDHAM, MA 02452
2023 APR 27 AM 10:59

PLANNING & COMMUNITY DEVELOPMENT
PLANNING DIVISION

DEFINITIVE SUBDIVISION DECISION

920 South Street
Brian Connaughton
April 25, 2023

DECISION of the Planning Board of the Town of Needham, Massachusetts, (hereinafter together with any entity succeeding to the powers of said Planning Board referred to as the Board) on the petition of Brian Connaughton, 920 South Street, Needham, MA (to be referred to hereinafter as the Petitioner) for property located at and known as 920 South Street, Needham, Norfolk County, Massachusetts. Said property is shown on Assessors Plan No. 205 as Parcel 6, and bounded and described as follows:

Said parcel is shown as Lot numbered 16 on a plan drawn by Cheney Engineering Co., Inc., Surveyors, dated March 1987, as approved by the Land Court, filed in the Land Court Registration Office as No. 2417R, a copy of a portion of which is filed with the Norfolk County Registry District of the Land Court with Certificate No. 130654 in Book 654.

The above-described land is subject to the sewer easements as set forth in Document Nos. 6159, 8953, 146331 and shown on said plan as Sewer Easement (30.00 Wide).

The above-described land is also subject to Sewer Easement (20.00 Wide) shown on said plan.

Being the same premises conveyed to Brian Connaughton by deed of VNA Care Hospice, Inc., dated April 8, 2022, filed with the Norfolk County Registry District of the Land Court as Document No. 1501178 and noted on Certificate of Title No. 207299, to which deed reference is made for title.

This decision is in response to an application for approval by the Petitioner of a Definitive Subdivision Plan submitted to the Board on November 8, 2022, under Massachusetts General Laws, Chapter 41, Sections 81-K through 81-GG, inclusive.

If approved, the Plan would create two (2) building lots; all would have frontage and access on the new road.

After causing notice of the time and place of its 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, Adam Block, Chairperson of the Board, called the hearing to order on Monday, December 19, 2022, at 8:00 p.m. in the Charles River Room, first floor, Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts, as well as by Zoom Web ID Number 880 4672 526 . The hearing was continued to Tuesday, February 7, 2023 at 7:10 p.m. in the Charles River Room of the Public Services Administration Building, 500 Dedham Avenue, Needham, MA as well as by Zoom Web ID Number 880 4672 5264. The hearing was further continued to Tuesday March 8, 2023 at 7:05 p.m. in the Charles River Room of the Public Services Administration Building, 500 Dedham Avenue, Needham, MA as well as

by Zoom Web ID Number 880 4672 5264. The hearing was further continued to Tuesday, April 4, 2023 at 7:10 p.m. in the Charles River Room of the Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts as well as by Zoom Web ID Number 880 4672 5264. Board members Adam Block, Jeanne S. McKnight, Paul S. Alpert, Natasha Espada and Artie Crocker were present throughout the proceedings. The deadline for action on the application was extended by the Board upon the request of the Petitioner until May 19, 2023. The record of the proceedings and submissions upon which this approval is based may be referred to in the office of the Town Clerk or the Planning Board Office.

The Board met on April 25, 2023 to deliberate on the proceedings and to consider the evidence. Submitted for their deliberations prior to the close of the public hearing were the following exhibits.

- Exhibit 1 - Application for a Definitive Subdivision, with Exhibit A (List of Waivers) and Exhibit B (Description).
- Exhibit 2 - Letter from Brian Connaughton, dated September 30, 2022.
- Exhibit 3 - Letter directed to Lee Newman, Director of Planning and Community Development, from George Giunta Jr., dated September 30, 2022.
- Exhibit 4 - Plan set consisting of 9 sheets, prepared by Verne T. Porter, 354 Elliot Street, Newton, MA: Sheet 1, Title Sheet, dated September 9, 2022; Sheet 2, entitled "Existing Conditions Site Plan," dated September 9, 2022; Sheet 3, entitled "By Right Subdivision Plan of Land," dated September 9, 2022; Sheet 4, entitled "Proposed Lotting Plan," dated September 9, 2022; Sheet 5, entitled "Proposed Grading Plan," dated September 9, 2022; Sheet 6, entitled "Proposed Utilities Plan," dated September 9, 2022; Sheet 7, entitled "Plan, Profile & Detail Sheet," dated September 9, 2022; Sheet 8, entitled "Detail Sheet," dated September 9, 2022; Sheet 9, entitled "Detail Sheet," dated September 9, 2022.
- Exhibit 5 - Drainage Summary, Proposed Two Lot Residential Subdivision, 920 South Street, Needham, MA, prepared by Verne T. Porter, 354 Elliot Street, Newton, MA, dated September 28, 2022.
- Exhibit 6 - Letter from George Giunta Jr., Attorney, dated March 7, 2023.
- Exhibit 7 - Plan set consisting of 9 sheets, prepared by Verne T. Porter, 354 Elliot Street, Newton, MA: Sheet 1, Title Sheet, dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 2, entitled "Existing Conditions Site Plan," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 3, entitled "By Right Subdivision Plan of Land," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 4, entitled "Proposed Lotting Plan," dated September 9, 2022, revised October 5, 2022, January 19, 2023 and February 23, 2023; Sheet 5, entitled "Proposed Grading Plan," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 6, entitled "Proposed Utilities Plan," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 7, entitled "Plan, Profile & Detail Sheet," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 8, entitled "Detail Sheet," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 9, entitled "Detail Sheet," dated September 9, 2022, revised January 19, 2023 and February 23, 2023.

Exhibit 8 - Interdepartmental Communication (IDC) to the Board from Debbie Anderson, Director, Conservation Department, dated December 15, 2022; IDC to the Board from Thomas Ryder, Town Engineer, dated March 23, 2023; IDC to the Board from Tom Conroy, Fire Chief, Needham Fire Department, dated March 29, 2023; IDC to the Board from Chief John Schlittler, Needham Police Department, dated March 29, 2023; and IDC to the Board from Tara Gurge, Assistant Director of Public Health, dated October 20, 2022.

Exhibits 1, 2, 5 and 7 are referred to hereinafter as the Plan.

The Board hereby APPROVES the Subdivision, as shown on the Plan, located in Needham, Norfolk County, Massachusetts, to be recorded herewith, for the reasons and subject to the plan modifications, conditions and waivers herein set forth. The approval herein granted is based on the Plan set consisting of 9 sheets, prepared by Verne T. Porter, 354 Elliot Street, Newton, MA: Sheet 1, Title Sheet, dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 2, entitled "Existing Conditions Site Plan," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 3, entitled "By Right Subdivision Plan of Land," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 4, entitled "Proposed Lotting Plan," dated September 9, 2022, revised October 5, 2022, January 19, 2023 and February 23, 2023; Sheet 5, entitled "Proposed Grading Plan," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 6, entitled "Proposed Utilities Plan," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 7, entitled "Plan, Profile & Detail Sheet," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 8, entitled "Detail Sheet," dated September 9, 2022, revised January 19, 2023 and February 23, 2023; Sheet 9, entitled "Detail Sheet," dated September 9, 2022, revised January 19, 2023 and February 23, 2023.

1. The Board has waived compliance with the following requirements of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, having found that such action is in the public interest and is not inconsistent with the intent and purposes of the Subdivision Control Law.

- a) The Board hereby waives the requirements of Section 3.3.1 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that all streets be laid out to a width of 50 feet and approves instead a 20-foot wide right-of-way, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 12 of this decision. The Board found a right-of-way width of 20 feet to be sufficient to accommodate the 2 lot residential subdivision. In the granting of this waiver, the Board considered the Plan as referred to in Exhibits 1, 3, 5 and 7 hereof.
- b) The Board hereby waives the requirements of Section 3.3.1 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that all streets contain a pavement width of twenty-four feet, and approves instead a 18-foot wide pavement width, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 12 of this decision. The Board found a pavement width of 18 feet to be sufficient to accommodate the 2 lot residential subdivision. In the granting of this waiver, the Board considered the Plan as referred to in Exhibits 1, 3, 5 and 7 hereof.

- c) The Board hereby waives the requirements of Section 3.3.5 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require that the pavement within the cul-de-sac have a minimum radius of 60 feet and approves instead a radius of 50 feet for the pavement within the cul-de-sac, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 12 of this decision. In the granting of this waiver, the Board considered the Plan as referred to in Exhibits 1, 3, 5 and 7 and 8 hereof and the specific goal of minimizing regrading and impervious surface on the site which would otherwise have been required if a 60 foot radius paved circle was to be required.
- d) The Board hereby waives the requirements of Section 3.3.6 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require granite or reinforced concrete curbing in accordance with Town specifications at the edge of all streets, and approves instead no curbing, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 12 of this decision. In the granting of this waiver, the Board considered the number of homes served by this subdivision, the dead end nature of the proposed street, and the affirmative recommendation of the Town Engineer for this roadway design program.
- e) The Board hereby waives the requirements of Section 3.3.16 of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, which would otherwise require the construction of a sidewalk in accordance with the “Standard Specifications” of the Town of Needham along both sides of the proposed roadway and approves instead no walkways, as shown on the Plan, as modified by this decision. The above-named waiver is subject to the provisions of paragraphs 3 through 12 of this decision. In the granting of this waiver, the Board considered the number of homes served by this subdivision, the projected traffic volume for the new Private Way, the dead end nature of the proposed street and the lack of a sidewalk on South Street.

2. Petitioner shall cause the Plan to be revised to show the following additional or revised information which modifications shall be subject to review and approval of the Board prior to endorsement of the Plan:

- a) The plan shall be revised to show a cul de sac landscaping plan.
- b) The plan shall be revised to show a landscaping plan for the 10 foot Raised / Buffer Planting Strip, located along a portion of the westerly boundary, as shown on the plan.

3. The waiver of street construction requirements, as fully set forth in paragraphs 1.a, 1.b, 1.c, 1.d and 1.e is expressly conditioned upon and subject to the restriction that neither the owner nor any successor owner or owners of Lot 1 or Lot 2 as shown on the Plan (hereinafter referred to individually as a Lot or collectively as the Lots) shall use the Lots for any purpose other than single-family residential use or Lot owner home occupations as allowed under the Zoning By-Law, as shown on the Plan, as approved by the Board and recorded herewith, and there shall be no further division of the Lots as shown thereon without the prior written approval of the Planning Board.

4. Each and every owner or owners of any Lot shall be jointly and severally responsible and liable, and shall fulfill all lot owners’ obligations under a Homeowners Trust Agreement, for the costs of the maintenance, repair and reconstruction of the Private Way shown on the Plan and designated thereon and all services, (whether the services are located within the Private Way or in areas shown partially on the Private Way and partially on a Lot), the installation of which are required in connection with this approval, or which may be installed at any time, including,

without limitation, maintenance, repair and reconstruction of roadways, water, sewer and drainage facilities and other utilities and related equipment, curbs, monuments, walkways, landscaping and street signs, as and whenever necessary, and including all actions of any kind or nature necessary or appropriate in order to maintain the Private Way in a good, safe and passable condition, including snow plowing, providing access from each Lot to a public way, as shown on the Plan, and providing adequate services to each Lot, all in accordance with these conditions.

5. Each and every owner or owners of any Lot shall be jointly and severally responsible and liable, and shall fulfill all Lot owners' obligations under the Homeowners Trust Agreement, for all maintenance, repairs and reconstruction required for or on the Private Way in compliance with and in conformity with requirements of the Town of Needham and other requirements imposed by law or governmental authority.

6. The Trustees under the Homeowners Trust Agreement and each owner of a Lot shall not use or permit use of the Private Way for any purpose other than ingress and egress from the Lots by the residents of the Lots and their guests and invitees, such use to be limited to pedestrian and private-passenger vehicular traffic, and such other vehicular traffic as is necessary from time to time in cases of emergency, delivery of customary and usual household services and equipment or in connection with the maintenance, repair or reconstruction of the Private Way, the Lot, and any structures thereon and services installed thereon, or hereunder.

7. Neither the Lot owners nor the Trustees under the Homeowners Trust Agreement shall perform, nor shall they permit changes to be made to any Lot, which would impact the functionality or design of the drainage improvements as shown on the Plan.

8. Any and all maintenance, repair or reconstruction work performed on or to the Private Way or in connection with services installed thereon or hereunder by or at the direction of any owner or owners of any Lot or the Trustees under the Homeowners Trust Agreement as provided herein shall be carried out so as to ensure that no fill material nor any products or excavation or erosion resulting from or arising in connection with such work shall be discharged into any storm drainage system, and soil and other material or debris shall be removed from the site only if such removal will not impact the functionality or design of the drainage improvements shown on the Plan, and only to the extent necessary in connection with such work.

9. No Lot owner nor the Trustees under the Homeowners Trust Agreement shall at any time request that the Private Way be laid out or accepted as a public way in the Town of Needham unless such owner or owners or Trustees at its or their sole expense, perform and complete such work as is necessary to cause the Private Way to comply with all standards and regulations of the Town of Needham without waiver, and obtain all permits and approvals required by law in connection therewith. If the Private Way is accepted by the Town of Needham as a public way at any time, then the provisions hereof applicable to ownership and maintenance of the Private Way shall thereupon terminate.

10. No Lot owner nor the Trustees under the Homeowners Trust Agreement, shall at any time request or petition that any drainage system, water pipes, sewer pipes or related equipment or any other improvement within the subdivision for which design or improvement requirements have been waived by the Board as provided herein, be accepted or maintained by the Town of Needham.

11. The Town of Needham and its designees shall have the right to enter upon the Private Way for all purposes for which public ways are used in the Town of Needham.

12. In any sale or transfer by the owner or any successor owner of any of the Lots, the deed or other instrument shall refer to and incorporate conditions 3 through 11 inclusive and a) any conveyance shall include transfer of a fee interest or the perpetual right and easement to use the Private Way in common with others lawfully entitled thereto for all purposes for which public ways in the Town of Needham may now or hereafter be used consistent with the provisions hereof, and the b) subsurface areas, equipment and facilities used and maintained in connection with the provision of water, sewer, drainage and other utility services provided to the conveyed premises. Any deed or other instrument purporting to transfer or convey any interest in any Lot or Lots which does not expressly refer to and incorporate these conditions shall nevertheless be deemed to contain the same and in all events shall be subject thereto.

13. The Petitioner shall deliver to the Board a Restrictive Covenant incorporating conditions 3 through 11 inclusive of this decision in a form suitable for recording in the Registry of Deeds that shall run with the land and shall be enforceable by the Town. Such restriction shall be referenced on the Plan and shall be recorded therewith. Said covenant shall be enforceable in perpetuity or for the longest period permitted by law and in any event for 100 years.

14. Lots 1 and 2 inclusive as shown on the Plan shall be accessed solely from the new Private Way with no vehicular access for said lots provided directly to South Street. Vehicular access to the new Private Way shall be limited to said Lots 1 and 2 as shown on the Plan.

15. The island in the center of the Private Way cul-de-sac shall be landscaped. The island landscaping shall be maintained by the Lot owners, and each Lot owner shall fulfill all Lot owner obligations relating thereto under the Homeowners Trust Agreement.

16. There shall be no alteration or change to a Lot so as to affect the drainage system for any Lot, or the drainage systems running across a Lot, as shown on the Plan, as modified by this decision, without the prior written approval of the Planning Board or Town Engineer as noted below. Any Lot owner who proposes to make a change from the approved Plan shall first file a copy of a plan depicting the proposed changes with the Needham Town Engineer, with a request for a determination as to whether the changes affect the drainage system. If the Town Engineer determines that the changes affect the drainage system, or if the Town Engineer fails to respond to the request for a determination within 45 days, the Lot owner may file the plan with the Planning Board for its review. In such event, the Lot owner shall file with the Planning Board such information as the Planning Board determines necessary for its review. The Planning Board shall hold a public hearing within 60 days of receiving a complete filing. After said public hearing, the Board may, in its sole discretion, find that the proposed changes do not appear to negatively impact down gradient property owners or interfere with the functioning of the drainage system(s) of the Lot or subdivision. In such event the Lot owner, only upon receipt of a written decision from the Planning Board, may implement the changes as shown on the new plan.

17. Off-street drainage surety in the amount of \$7,000.00 shall be posted (\$3,500.00 per lot) prior to the release of Lots 1-2 inclusive as shown on the Plan for purposes of building or conveyance. As recommended in the memo of the Board of Health dated October 20, 2023, all lots shall be graded to the limits of construction so as to have no standing water and/or otherwise create a public health nuisance. Grading shall not improperly shed or illegally increase drainage onto adjacent properties. All subsequent developers or builders shall be notified of the off-street drainage bond and the specific off-street drainage requirements. If required by the Board of Health, an as-built certified grading plan(s) of all or any of the lots shall be submitted prior to release of the drainage surety.

18. Each record owner, whether one or more persons or entities, of title to Lots 1 and 2, as shown on the Plan, shall maintain and keep operational their respective roof drainage system in accordance with the Plan, as approved by this decision and as further described in the Drainage Summary, Proposed Two Lot Residential Subdivision, 920 South Street, Needham, MA, prepared by Verne T. Porter, 354 Elliot Street, Newton, MA, dated September 28, 2022.

19. Prior to plan endorsement and in keeping with Phase II NPDES, Town of Needham as filed July 30, 2003, the Petitioner shall select a BMP topic under “Public Education and Outreach” and “Public Participation/Involvement” and shall implement said selected topic prior to the release of the subdivision lots.

20. The following safeguards shall be implemented during construction:

a. The hours of construction and construction related activities shall be limited to 7:30 a.m. to 6:00 p.m. Monday through Saturday.

b. 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 Commissioner 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 South Street. The designee shall supply a phone number where the designee can be reached 24 hours per day.

c. 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 or materials to or from the site and keeping South Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be necessary.

21. Prior to site alteration the Petitioner shall mark in the field those trees which the landscape plan indicates will be retained. Such trees identified to be preserved shall be distinguished with appropriate markings, which may include surrounding fences or stakes. Any such trees removed which were identified for retention shall be replaced with trees of similar quality and caliper or as otherwise approved by the Board.

22. A Department of Environmental Protection sewer extension and connection permit may be required to service the subdivision and abutting lots. If required, approval of this subdivision is subject to the granting by the Select Board and the Department of Environmental Protection of a Sewer Extension and Connection Permit.

23. Any and all special permits required by the Massachusetts Water Resources Authority shall be obtained at the expense of the Petitioner.

24. A special sewer connection permit program fee shall be provided for all lots within the subdivision.

25. Grade adjustment rings are not permitted to adjust gate boxes and/or other castings. The Petitioner shall use appropriately sized castings.

26. All catch basins shall remain functional at all times. Rims shall be set at binder elevation and shall be adjusted to finish course elevation prior to placement of the top course of pavement.

27. If the binder course of pavement is exposed to one winter season, it shall be chipsealed prior to September 1 of the following winter season. If the roadway work is not completed prior to the third winter season, road reconstruction may be required by the Highway Superintendent.
28. No openings in the pavement shall be made after the chipseal has been laid between September 1 and April 1.
29. The construction, operation and maintenance of the subdivision shall be conducted in accordance with the EPA's Memorandum of Understanding signed by the Board of Selectmen.
30. "As-built" construction plans of the sewer, water and drainage utilities shall be submitted to the Department of Public Works and the Board for review and approval prior to release of the respective performance bond amounts.
31. All future sewer tie-ins to properties located outside of this subdivision shall be accomplished in a manner consistent with the "Town of Needham Master Plan of Connection to the MWRA Sewer" dated January 8, 1988, (as revised) and prepared by the Needham Public Works, Sewer Division.
32. Prior to the commencement of any street construction within the subdivision, the location of future street lighting, location of fire alarm circuits and outlets, and the location of underground power to serve these, as applicable, shall be shown on an amended version of the definitive utility plan to be filed with the Board and Public Works Department.
33. The provisions of M.G.L., Chapter 131, Section 40 and 40A and the Needham Wetlands Protection By-Law shall be satisfied.
34. All construction staging and parking shall be on-site. No construction parking shall be permitted on South Street or on any other public street.
35. All areas where utilities are proposed shall be compacted to the satisfaction of the Public Works Department.
36. In the absence of any details or waivers set forth herein, the current Subdivision Regulations and Procedural Rules of the Planning Board shall govern and are hereby made a part of this decision. All construction details not specifically shown on the approved Plan shall conform to Department of Public Works specifications.
37. The developer is directed to submit the Subdivision Inspection Form during all phases of construction as required, in accordance with Appendix E of the Subdivision Regulations and Procedural Rules of the Planning Board.
38. Notwithstanding the provisions of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board, the Petitioner shall have two years from the date of endorsement of the Plan to complete the installation and construction of the new Private Way, and the services provided therein, in accordance with the applicable Subdivision Regulations and Procedural Rules of the Planning Board. Failure to so complete shall automatically rescind approval of the Subdivision Plan.
39. The Petitioner shall enter a written agreement to guarantee completion, once commenced, of the required improvements for all lots in the Subdivision, as shown on the Plan, with such

construction and installation to be additionally secured by one of the methods delineated under the provisions of Section 3.5.1. Such agreement shall be subject to review and approval of the Board prior to endorsement of the Plan.

40. The Petitioner shall deliver to the Board for its approval a duly executed easement deed to the Town of Needham granting to the Town the right to pass on foot or by vehicle over the Private Way and access rights over the “Drain Easement” and “Sewer and Drain Easement” on each of the Lots, a Subdivision Covenant, a Buffer Planting Strip Covenant and Restriction, a Restrictive Covenant and Homeowners Trust Agreement, all as may be required and as shown on the Plan (“the Documents”). The Documents shall be subject to review and approval of the Board prior to endorsement of the Plan. The Documents shall be referenced on the Plan and all documents shall be recorded with the Plan.

41. Prior to the release of any lots for building or sale, copies of the recorded instruments described in paragraphs 13 and 40 of this decision and copies of the recorded plan shall be provided to the Director of Planning and Community Development.

42. The Petitioner shall present the Plan to the Board for proper endorsement within ninety (90) days of the date this decision is executed unless such time period is extended, in writing, by the Board. The Board reserves the right to rescind its approval if said Plan is not presented to the Board for endorsement within the time period herein specified. Further, the Petitioner or his authorized representative shall submit the Plan to the Director of Planning and Community Development fourteen (14) days in advance of its presentation to the Board to allow adequate time to review the revised Plan for compliance with the Conditions of this decision.

The foregoing have been stated for the purpose of emphasizing their importance and are not intended to be all inclusive or to negate any provision of the Town of Needham, Subdivision Rules and Procedural Rules of the Planning Board.

Under the provisions of the Town of Needham, Subdivision Regulations and Procedural Rules of the Planning Board and Massachusetts General Laws, Chapter 41, Sections 81-K through 81-GG, inclusive, the Board shall have the power to modify or amend the terms and conditions of this approval after due notice on the application of the owner, lessee or mortgagee of the premises or upon its own motion. All the provisions of the Subdivision Control Law applicable to approval shall, where appropriate, be applicable to such modification or amendment. Such power is hereby reserved. Appeals, if any, shall be made pursuant to Section 81-BB of the Massachusetts General Laws, Chapter 41, and shall be filed within twenty (20) days after the date of filing this decision with the Town Clerk.

The provisions of this Approval and Conditions shall be binding upon every owner or owners of each of the lots, as shown on the Plan, and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with said land in full force and effect for the benefit of and enforceable by the Town of Needham. Reference to this Approval shall be entered upon the Plan and this Approval shall be recorded in the Norfolk Registry of Deeds with the Plan.

South Street

50' No Disturbance Area

Lot 1

Lot 2

Proposed 20' Wide Private Roadway

Stewartia Monadelpha - Orange Bark Stewartia

Cercis Canadensis - Forest Pansy Red Bud

Existing Trees to

Starting point go first planting is approx. 6' off

11 Piceas Abies 'Cupressina' - Norway Spruce

Maintenance Path

Final Planting to be centered on gate section of fencing at 31



~Proposed Grading Plan
 920 South Street
 Needham, Massachusetts
 Scale: 1"=20' September 9,
 VERNE T. PORTER Jr, PLS
 Land Surveyors - Civil Engi
 354 Elliot Street, Newton, Mc



Sheet 4 of 5

REVISIONS	

DATE: 09/09/09	PROJECT: 920 South Street
DRAWN BY: NH, MB	CHECKED BY: []
ISSUE: 09/09/09	PROJECT NO: 245.170
PROJECT NAME: Tree Planting Plan at Abutter and Island	

Excelsior Development Partners, Inc.
 Watertown, Massachusetts
 tel: 617-564-3389
 email: Brian@ExcelsiorDP.com

PROJECT Name
 PROJECT NO. 245.170
 ISSUE MM/DD/YY
 DRAWN BY NH, MB

920 South Street
 Tree Planting Plan at Abutter and Island

L.01

1/30/2024

Dear Planning Board Members,

It is my understanding that Brian Connaughton, the developer of 920 South street, will soon be presenting a plan for the vegetation buffer, as it was outlined in the subdivision plans submitted to the Planning Board. Once he does that, I kindly ask the Planning Board to send the plan for my review and comments as well.

I have been in communication with Mr. Connaughton on a regular basis about the buffer zone. We had discussions and meetings with several professional landscapers about varieties of trees for planting, scope of work, etc. We also agreed that the planting will start in spring 2024, since timing for the planting in the fall of 2023 was missed.

It is also my understanding that the developer is not going to engage a professional landscaper or an arborist for this work and plans to acquire and plant trees himself in this very sensitive area. To the best of my knowledge the developer is not a professional landscaper/ arborist and as far as I know the company was not engaged prior in the project of this size or nature. Besides clearing vast areas of land with mature and in some cases valuable trees, the work to create appropriate buffer zone with the right varieties of trees is essential for the site. The developer indicated to me that he plans to put on the buffer zone trees with an approximate height of 10 feet. I feel it is the right size, since planting some smaller trees, bushes, etc., will defeat the purpose of the buffer zone.

Once the plan for the buffer zone is submitted by the developer to the Planning Board I think it will be appropriate to engage and seek advice for this particular work opinion and input from the Superintendent of Parks and Forestry Division.

Since the developer plans to do the work, planting by himself without participation of a professional landscaper the Planning Board, if it is possible shall ask the developer to provide more detailed description of the work which shall

include warranty for the trees, duration of the warranty, plan to maintain the trees and replacement procedures, if a tree dies, becomes infected, or becomes danger to the surrounding vegetation. It is also important to stay away from planting invasive species. This is especially important, since I myself plan to install several trees on my side along the property line and for this purpose I will be using a professional landscaper supervised by an arborist. Typically, in this case the trees and the work are warranted by the contractor for 12-24 months.

I will continue to cooperate with the developer since I want the site to look appropriate and continue to maintain its value and beauty. At this point it is an eye sore and has been for quite some time. The work progresses slowly and I anticipate it will last for many more months. Since the developer at this point is not certain how and where the access from his site to the path in the woods will be created he is planning to complete the remainder of the buffer zone at a later time. Therefore, the developer needs to submit plans for the entire length of the buffer zone, as it is indicated in the subdivision plans. For the time being it is my understanding the developer plans to complete in the spring of 2024 only a part of the buffer with an approximate length of 82-85 feet.

Because this matter is extremely important to me as an abutter I would like to participate in the hearing to review and approve of the buffer zone, present my comments, if any. For this purpose I would like to be notified when this hearing or any other procedures in this regard are scheduled.

Thank you very much for your help and understanding.

Sincerely,



Dr. Serguei Aliev

31 Marant Drive, Needham, MA, 02492

KEEGAN WERLIN LLP

ATTORNEYS AT LAW
99 HIGH STREET, SUITE 2900
BOSTON, MASSACHUSETTS 02110

— — —
(617) 951-1400

TELECOPIER:
(617) 951- 1354

March 4, 2024

BY ELECTRONIC MAIL

aclee@needhamma.gov

Town of Needham Planning Board
c/o Alexandra Clee
1471 Highland Avenue
Needham, MA 02492

Re: 920 South Street Definitive Subdivision

Dear Planning Board Members:

This letter is sent on behalf of Serguei Aliev, owner of the property at 31 Marant Drive in Needham, regarding the Planning Board's on-going review of the landscaping plan for the referenced subdivision. Dr. Aliev has received a copy of an undated figure marked L.01 and labeled "Tree Planting Plan at Abutter and Island," by Excelsior Development Partners, Inc. As set forth below, Dr. Aliev is concerned that this plan is not in compliance with the conditions of the Planning Board's decision dated April 25, 2023 (the "Decision").

First, condition #2 of the Decision requires the following:

2. Petitioner shall cause the Plan to be revised to show the following additional or revised information which modifications shall be subject to review and approval of the Board prior to endorsement of the Plan:

- a) The plan shall be revised to show a cul-de-sac landscaping plan.*
- b) The plan shall be revised to show a landscaping plan for the 10 foot Raised / Buffer Planting Strip, located along a portion of the westerly boundary, as shown on the plan.*

According to the Decision, the "Plan" was defined to include Sheet #5, entitled "Proposed Grading Plan," in the plan set submitted to the Planning Board with a latest revision date of February 23, 2023. The figure L.01 that was recently filed does not appear to satisfy this condition.

Letter to Needham Planning Board
Re: 920 South Street Definitive Subdivision
March 4, 2023
Page 2 of 2

Second, condition #40 of the Decision requires the following:

40. The Petitioner shall deliver to the Board for its approval ... a Buffer Planting Strip Covenant and Restriction. The Documents shall be subject to review and approval of the Board prior to endorsement of the Plan. The Documents shall be referenced on the Plan and all documents shall be recorded with the Plan.

The figure L.01 that was recently filed does not appear to satisfy this condition, and there is no indication that a *Buffer Planting Strip Covenant and Restriction* has been submitted.

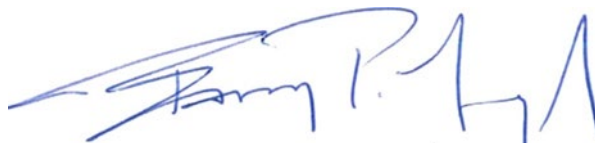
Third, figure L.01 shows eleven (11) Norway Spruce together covering only a small portion of the regraded area identified as the “buffer strip.” It also shows four trees as “existing,” although Dr. Aliev reports those trees have been removed already. The reasonable expectation by Dr. Aliev is that the Planning Board’s requirement was for appropriate planting along the full length of the regraded area identified as the buffer strip running from the “benchmark concrete bound” beyond the “100-foot wetland buffer” shown on the Grading Plan.

Fourth, there are no details on figure L.01 about the size of the Norway Spruce to be planted, the planting, maintenance and preservation procedures. Planting only very small trees will defeat the purpose of the buffer planting.

In summary, Dr. Aliev is requesting that the Planning Board maintain its requirements for the proponent to submit a landscaping plan that covers the entire length of the previously agreed upon and approved 10-foot wide Buffer Planting strip, provide details about the size of the trees, their proposed planting, maintenance in perpetuity and procedures for replacement of a tree that dies or becomes diseased. This would seem to have been the purpose of the requirement for a “Buffer Planting Strip Covenant and Restriction.” Dr. Aliev asks that the Planning Board establish the 2024 spring planting season as the deadline for the planting in the buffer strip.

Thank you.

Sincerely,



Barry P. Fogel

cc: Dr. Serguei Aliev
George Giunta, Jr., Esq.

From: [Lee Newman](#)
To: [Brian Connaughton](#)
Cc: [Alexandra Clee](#)
Subject: RE: Tomorrows Planning Meeting
Date: Monday, March 4, 2024 11:45:00 AM

Brian,

Yes. I can remove this item from the Planning Board meeting agenda of March 5 and we can then reschedule for a date when the revised plan is available.

Thank you,

Lee

-----Original Message-----

From: Brian Connaughton <brian@excelsiordp.com>
Sent: Monday, March 4, 2024 11:33 AM
To: Lee Newman <LNewman@needhamma.gov>
Subject: Tomorrows Planning Meeting

Hi Lee,

Thank you for your time today. Can you please postpone our landscape review so I have some time to rework the plan?

Thanks

Brian

ARTICLE 1: AMEND ZONING BY-LAW – AFFORDABLE HOUSING DISTRICT

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

1. In Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Residential:

“AHD – Affordable Housing District”

2. 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 housing 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 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.
- c. 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

<u>Minimum Lot Area (Sq. Ft.)</u>	<u>Minimum Lot Frontage (Ft.)</u>	<u>Front Setback (Ft.)</u> (1)	<u>Side Setback (Ft.)</u> (2)	<u>Rear Setback (Ft.)</u> (3)	<u>Maximum Floor Area Ratio</u>	<u>Maximum Dwelling Units Per Acre</u>	<u>Maximum Lot Coverage</u>	<u>Maximum Height (Ft.)</u> (4)	<u>Maximum Number of Stories</u>
20,000	150	40	25	25	0.50	25	20%	58	4

(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.

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

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

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(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.

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a. Minimum Lot Area (Sq. Ft.): 20,000 SF

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b. Minimum Lot Frontage (Ft.): 150 FT

c. Minimum Front Setback⁴ (Ft.): 40 FT

⁴ 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.

~~d. Minimum Side Setback³ (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~~

~~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.

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

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

~~⁴Structures 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.~~

3. In Section 7.4 Site Plan Review, Subsection 7.4.2 Definitions, by adding a new paragraph after the paragraph defining MAJOR PROJECT, to read as follows:

“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.”

4. In Section 7.4 Site Plan Review, Subsection 7.4.2 Definitions, by adding a new paragraph after the paragraph defining MINOR PROJECT, to read as follows:

“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.”

5. In Section 3.16 Accessory Dwelling Units (ADU’s) by renumbering the section as Section 3.17 Accessory Dwelling Units (ADU’s).

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Or take any other action relative thereto.

ARTICLE 1: AMEND ZONING BY-LAW – AFFORDABLE HOUSING DISTRICT

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

1. In Section 2.1, Classes of Districts, by adding the following term and abbreviation under the subsection Residential:

“AHD – Affordable Housing District”

2. In Section 3, Use Regulations, by inserting a new Subsection 3.16, Affordable Housing District, to read as follows:

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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 housing 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 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.
- c. 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

Minimum Lot Area (Sq. Ft.)	Minimum Lot Frontage (Ft.)	Front Setback (Ft.) (1)	Side Setback (Ft.) (2)	Rear Setback (Ft.) (3)	Maximum Floor Area Ratio	Maximum Dwelling Units Per Acre	Maximum Lot Coverage	Maximum Height (Ft.) (4)	Maximum Number of Stories
20,000	150	40	25	25	0.50	25	20%	58	4

- (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 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.

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- 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.

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- 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.
3. In Section 7.4 Site Plan Review, Subsection 7.4.2 Definitions, by adding a new paragraph after the paragraph defining MAJOR PROJECT, to read as follows:

“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.”
 4. In Section 7.4 Site Plan Review, Subsection 7.4.2 Definitions, by adding a new paragraph after the paragraph defining MINOR PROJECT, to read as follows:

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 5. In Section 3.16 Accessory Dwelling Units (ADU’s) by renumbering the section as Section 3.17 Accessory Dwelling Units (ADU’s).

Or take any other action relative thereto.

ARTICLE 2: 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 follows:

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.



21 Highland Circle, Suite 10, Needham, Massachusetts 02494
(781) 444-3011 x. 212 • Fax (781) 444-1089 • CGosmon@NeedhamHousing.org

March 5, 2024

Adam Block
Chair, Town of Needham Planning Board
Town Hall, 1471 Highland Avenue
Needham, MA 02492

Dear Chair Block,

At the February 27, 2024 Planning Board public hearing for the proposed Affordable Housing District (AHD) to support the Redevelopment of Linden and Chambers Streets, there were several discussion items that would benefit from further clarification.

As the project's owner and sponsor, the Needham Housing Authority (NHA) is submitting this letter and attached Q&A to the Planning Board to respond to questions that were discussed at the meeting. The Q&A discusses affordability and use restrictions in the proposed zoning. In addition, it addresses topics indirectly related to zoning that were raised via public comments, such as tenant eligibility, income requirements, and the tenant selection process. I have also attached the proposed non-zoning warrant article for reference.

Please do not hesitate to contact me via email at chair@needhamhousing.org with any questions.

Thank you for your time,

A handwritten signature in blue ink that reads "Reginald C. Foster".

Reginald C. Foster
Chair, Board of Commissioners
Needham Housing Authority

Cc: Cheryl Gosmon, Executive Director, NHA
Robert T. Smart, Esq.
Lee Newman, Director of Planning & Community Development, Town of Needham
Alex Clee, Assistant Town Planner, Town of Needham

**Response to Questions Raised & Comments Made
at the February 27, 2024 Public Hearing
Regarding the Proposed
Affordable Housing District Zoning Bylaw Warrant Articles**

**Needham Housing Authority
3/5/2024**

1. What is the affordability restriction in the proposed zoning and why? How does this relate to affordability restrictions in the existing zoning for the site and existing residents at Linden and Chambers Streets?

Affordability restrictions can be imposed on a property through various methods. Three common methods of applying affordability restrictions are (1) zoning, (2) recorded documents and (3) statutory and regulatory requirements of the subsidy programs that support the construction or operation of affordable housing. Affordability restrictions for the existing state public housing units at Linden and Chambers are currently in place via the state Chapter 667 public housing program, which allows households with incomes at or below eighty (80) percent of the Area Median Income (AMI) to qualify. This income restriction aligns with the Section 8 housing choice voucher and federal public housing programs and the "...at or below 80% of AMI...", and the definition of an "Affordable Housing Unit" in Section 1.3 of the Town of Needham Zoning By-Law.

There are currently no affordability restrictions for the Linden and Chambers site that are dictated by zoning. Rather, when Town Meeting approved transferring the land to NHA in the 1950's and 1960's, the warrant articles restricted the usage to "housing for the elderly", with reference to the predecessor statute to the current Chapter 121B, and these restrictions were carried over into the documents recorded at the Norfolk County Registry.

The prior condition would change if the proposed Affordable Housing District (AHD) warrant articles are adopted. As presently written, the AHD warrant article language would add an at or below eighty (80) percent of the area median income" affordability usage restriction through zoning by requiring that all units meet the 80% AMI definition of "Affordable Housing Unit" in the Needham Zoning By-Law. As described above, this restriction continues to be in line federal public housing programs to which the Linden and Chambers property is transitioning. Currently this means that a household of one person in Needham with an income of up to \$82,950 would qualify for a 1-bedroom unit in the proposed AHD and a household of two persons in Needham with an income of up to \$94,800 would qualify for a 1 or 2-bedroom unit in the proposed AHD.

It is possible that some funding will require more affordability than the AHD, but that affordability should be established via program requirements and not through zoning. For instance, the Low-Income Housing Tax Credit (LIHTC) program requires that some units be

offered to tenants that make 60% or less of AMI and that some be offered to tenants that make 30% or less of AMI.

While there is an upper income limit of 80% of AMI for subsidized Linden and Chambers units within the proposed AHD, there is no lower limit. This means that the property's management agent can accept households with incomes down to \$0 income provided the unit is subsidized by either the federal or state public housing or voucher program. As a practical matter, most residents within NHA's portfolio, including at Linden and Chambers, have incomes around 30% AMI, in other words \$31,150 for a single person household and \$35,600 for a two person household. When NHA's existing Linden Street tenants move into their new units, their rents will be calculated on a similar basis under the new subsidy programs that will be utilized. The proposed AHD would not only enable these residents to remain eligible for housing at Linden and Chambers, but it would protect the affordability of the property by imposing an affordability restriction through zoning that lasts in perpetuity, even if the property's ownership changes.

Given the complexity of the "financial layer cake" of the subsidies being employed to fund the redevelopment project and their overlapping rules and regulations, we strongly recommend that the Town **not** impose a more restrictive affordability than 80%. Doing so could impair NHA's ability to secure the financing needed for construction.

2. The Linden and Chambers property's use is currently restricted to "elderly" housing. Should this restriction be continued in the new AHD?

No. Imposing zoning usage restrictions to "elderly" housing conflicts with current state policy, which has been most recently expressed via the MBTA Communities Act. An age restriction will be looked upon with disfavor by the Executive Office of Housing and Livable Communities (EOHLC) and could delay or jeopardize NHA's chances of securing construction funding in upcoming competitive funding rounds.

3. When will a temporary tenant relocation plan for the Redevelopment of Linden Street be developed and how will it work? Will the existing 72 Linden tenants be able to return to the project after its completion?

While these questions and question #4 aren't completely within the "four corners" of the purpose of the 2/27/2024 Public Hearing on the proposed zoning articles, here are the answers to these questions.

As presently conceived, Phase 1A construction will affect and require the temporary relocation of 24 tenants. The first strategy employed will take advantage of natural attrition. At the appropriate time, NHA will seek EOHLC permission to pause accepting new applications, and the displaced tenants will be moved into other vacant units at Linden and Chambers.

For any of the remaining affected tenants, CHA will draft a Relocation Plan that details all policies and procedures related to the relocation process and will conform to all applicable state and federal requirements. The State Relocation Bureau will review and approve the Relocation Plan.

The Relocation Plan, in accordance with state requirements, will utilize the services of an approved Relocation Advisory Agent in implementing relocation at Linden; Cambridge Housing Authority is an approved Relocation Advisory Agent.

Once the project's zoning and funding are more certain (possibly in Fall 2024), CHA under NHA's supervision will engage current tenants in planning and drafting the Relocation Plan. The Relocation Plan will be reviewed and approved by the NHA Board and EOHLC. Once procedures and policies are finalized, residents will be assigned relocation coordinators to assist residents with relocation logistics. No tenants will incur any out-of-pocket costs for relocation.

All existing Linden Street residents who will need to temporarily relocate off-site as part of the redevelopment will have the right to return to an apartment in the new Linden Street building.

4. Will existing Linden Street tenants pay the same subsidized rent under the same regulations when they move back after construction completion?

As part of the Redevelopment of Linden Street, the subsidy source that supports the property's rental income will change from the state public housing program to the federal voucher program. Tenants will continue to pay approximately 30% of their monthly income for rent, with the remainder provided by the subsidy. For most tenants, this means that their rents will largely stay the same or decrease slightly. For a potential few cases, if an elder works, there may be an increase in rent, but it would still result in a rent no greater than 30% of their monthly income. This is because the state public housing program and federal voucher program have slightly different definitions regarding what counts as income.

5. Could NHA use the proposed AHD zoning to sell the Linden and Chambers Streets site as-of-right to a private developer who could then build a 4-story multifamily market rate rental or condominium building?

No. Any new owner would be bound by the proposed AHD zoning, which allows a multifamily building, but only if all the units are "Affordable Housing Units" as defined by the Needham Zoning By-Law to be affordable at or below 80% AMI. The AHD as currently proposed does not allow for single-family or two-family use.

Additionally, NHA's ability to transfer ownership of the Linden and Chambers Street properties would require the consent of the Commonwealth of Massachusetts given its history as state public housing.

6. What are the recorded land use restrictions and zoning regulations that are currently in place for the existing Linden and Chambers Streets development? How is the Town addressing this issue?

The existing recorded land use restrictions on the Linden and Chambers Streets property limit occupancy to elderly persons and MGL Chapter 121B requires that they be low income. The recorded restrictions also impose limits on the number of units, the overall height of the

buildings, and the number of stories. These restrictions are not consistent with the Linden Street redevelopment project as planned, which includes housing for disabled residents, more units, and a taller building.

The Select Board would be empowered to remove these restrictions via a proposed non-zoning warrant article that has been planned alongside the AHD warrant articles. The non-zoning article explicitly removes the elderly restriction and enables the Select Board to eliminate other restrictions of record. The non-zoning article also confirms that the existing Linden and Chambers Streets structures on the property may continue to operate as they currently do while the redevelopment is being planned. This protection for the existing buildings is critical because the redevelopment project will take place over the course of several years during which existing buildings will remain even after the proposed AHD comes into effect.

The non-zoning article must be voted upon at Spring 2024 Town Meeting in addition to the AHD zoning warrant articles. Approval of all three articles this Spring is an essential prerequisite that will enable NHA to apply for construction financing via the next annual One-Stop funding round that begins during the Fall of 2024.

7. Why does the AHD enable a 4-story multifamily building for a site that currently has single-story apartments? Are there other sites in Needham where NHA could build a similar project instead?

Purchasing new parcels for development is prohibitively expensive in Needham. As a quasi-governmental agency operating under Chapter 121B with its own budget and ownership of assets that are distinct from the Town, the 11-acre site at Linden and Chambers Streets represents a prime opportunity to replace the existing 152 units and build new units on land that NHA already owns.

Over the last year, NHA has engaged BH+A architects to determine how much to increase density at the site. While several options proposed a larger increase of units, NHA believes that the proposed additional 64 units is appropriate for Linden Street. From a financial perspective, if fewer new units than this are built, the project becomes more challenging to finance. This is because the units that will replace the current Linden state public housing units generate relatively little income. The additional new units are connected to more generous subsidy sources, which help to support loans for the overall project.

The project's design incorporates several architectural techniques to mitigate the visual impact of the buildings. In the current design, setbacks greater than those in the proposed AHD have pushed the Linden Street building well back from the street. The proposed new Linden Street buildings and its associated parking will align with the High Rock Middle School fields across the street, rather than nearby Linden Street abutters. A series of trees and bushes will screen the parking from Linden Street. Lastly, the project is designed with a pitched roof instead of a flat roof to be more contextually sensitive to the surrounding neighborhood.

8. How will increasing density at Linden and Chambers Streets impact local traffic in the area? How are traffic concerns being addressed through the project's development process?

NHA understands that the traffic impact of the proposed AHD is an important concern to the Linden Street neighborhood. A preliminary existing traffic conditions assessment was completed by traffic engineering consultants at the Pare Corporation as part of the concept report for Linden and Chambers Streets. It does not appear that the existing congestion problems (caused by High Rock School drop-off and pick-up) would be materially exacerbated by the proposed Linden and Chambers Redevelopment.

The report will be the basis for a formal Traffic Impact Assessment (TIA) that studies the impact of the 136 units that will be constructed in Phase 1 for Linden Street. The TIA is anticipated for completion in April and will be reviewed as part of the Planning Board's site plan review.

9. How does NHA vet applicants for its housing?

NHA conducts two types of vetting processes to confirm an applicant's eligibility for NHA housing.

- The first is an income verification process to ensure an applicant is eligible for housing. Applicants provide NHA with information regarding their incomes from work, assets, government benefits, gifts and more.
- The second is a background screening process that examines an applicant's past history. This includes a state and federal criminal background check. The federal background check is conducted in coordination with the Needham Police Department through the National Background Investigation Services (NBIS) through the III system.

All verification and screening processes are completed in compliance with applicable state and federal standards.

NEEDHAM PLANNING BOARD MINUTES

December 19, 2023

The Needham Planning Board meeting, held virtually using Zoom, was called to order by Adam Block, Chairman, on Tuesday, December 19, 2023, at 7:00 p.m. with Messrs. Crocker and Alpert, 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 per state guidelines. He reviewed the rules of conduct for all meetings. This meeting does not include any public hearings and public comment will not 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.

ANR Plan – Brendon – Mota LLC, Petitioner (Property located at 543 Greendale Avenue, Needham, MA).

Ms. Newman stated the plan has been reviewed and is compliant. Mr. Alpert commented he was sorry to see the Lutheran Church had closed.

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 endorse the plan ANR as provided in the packet.

Decision: De Minimus Change: Major Project Site Plan Review Special Permit No. 1998-11: 117 Kendrick DE, LLC, 116 Huntington Ave., #600, Boston, MA 02116, Petitioner (Property located at 117 Kendrick Street, Needham, MA).

Mr. Block noted there was an initial draft of the decision, then a red lined decision and some further red lined conditions. He asked if there were any comments about the red lined version. Mr. Alpert suggested the language regarding the nature of deliveries in the Findings and Conclusions in #4 is appropriate to have in #1 of the Conditions and Limitations. At the end of the last sentence after "specialized deliveries" the following language should be added ", that requires specific handling and storage conditions to support research development/lab space. These deliveries could include medical gas, refrigerated and/or delicate items that cannot be efficiently managed without appropriate facilities." Ms. McKnight agreed.

Mr. Alpert assumes the landlord would do work even though he has no tenant. He asked if there needs to be language if the landlord does not lease to a science lab as this is specific to a science lab being there. Attorney Tim Sullivan, of Goulston & Storrs, stated the applicant does expect to do the work so the space is attractive. There could be periods of time when other users may be in there. Whatever tenant there would be subject to the conditions. He feels the decision covers that. Mr. Alpert is fine with that but wanted to raise the question for the Board. Mr. Sullivan noted in Condition 5 the limitation in the frequency of deliveries is 2 times per week. It should be approximately 2 times per week or more. They would like up to 5 times per week. Ms. Newman is ok with a fixed number and not an approximate. All members are ok with 5 times per week.

Ms. McKnight noted in Finding #7, VHB's conclusion on traffic impact has anticipated deliveries approximately 1-2 times per week. She asked if there needs to be a limit of 1-2 times per week. There does not seem to be much impact, though. Mr. Block noted the gap analysis noted sufficient capacity to handle the change from 2-5 times per week. Mr. Alpert noted, in the red-lined draft, in the Conditions and Limitations, after January 10, 2006 "and" should be removed and a "," should be added.

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 grant the relief requested.

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 accept the amendment to the decision dated December 19, 2022, as presented with the red lined changes and the changes discussed this evening.

Decision: De Minimus Change: 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.

Mr. Block noted there was a decision in the packet and a draft with red-lined changes. He asked Town Counsel Chris Heep to review the decision and certain provisions. ~~He~~ Attorney Heep provided a response and Attorney Evans Huber has responded. That is part of the packet tonight. He asked if there were any outstanding issues. Evans Huber, attorney for the applicant, sent comments to the Planning Director. He appreciated that she looked them over and responded. He noted there are some red-lined comments. He feels there are still 5 or 6 very important issues and 3 less important issues. He noted on page 13, 2.0 (c) and now (b), regarding additional landscaping. He understands the neighbors asked for this, but it was not discussed at the hearing. He is not sure what it means. It is vague who the Petitioner would be agreeing with or if it would be the ~~Petitioner's~~ Petitioner's own judgement. This is problematic. Mr. Alpert noted the neighbors' property is across the street from the building and is not property the applicant owns. Mr. Huber stated it is a private way and the applicant only has the rights to pass and repass.

Ms. Newman stated at the first hearing the neighbors said they wanted some beautification there. She thought the applicant would meet with the condo association. Mr. Block stated no landscape plan has been proposed and there is no agreement where the petitioner agreed to do other things. Mr. Crocker noted when the bump out was proposed ~~created~~ it was going to be landscaped. He is not sure that is what is being referred to. Mr. Block stated, with the proposal, the Petitioner has no right or access to do that and has no plan. Mr. Huber stated there was a discussion with an abutter about the north side of the corner of Cross Street. The little peninsula was proposed that would impede turns from Cross Street onto Putnam Street. They would not have any landscaping that would to assist with limiting views at the corner. He feels any landscaping would be destroyed by plows. Ms. McKnight remembers the same as Mr. Crocker. The owner of the land abutting was concerned with the applicant going on his property. He was assured any altered hardscape ~~it~~ would not be on his property. She remembers some green grass but nothing about views. Where does it say there would be a bump out to discourage left turns onto Putnam? Mr. Block remembers the bump out, but nothing was discussed regarding landscaping or views.

Mr. Huber noted the Engineer said at the meeting it was a bad idea to put significant screening as it would impair views. He included green space but did not say what landscaping. Ms. McKnight agreed there could not be obstructions. She suggested eliminating the additional landscaping and put something in 3.17. Mr. Alpert asked if the bump out is shown on the plan. Mr. Block stated there was no concurrence from the residents of the condos and no further discussion after the loss of a parking space was noted. Mr. Crocker feels landscaping a couple of feet high would not impede views. Mr. Alpert commented 3.17 covers the language. This discussion is not appropriate as the hearing is closed. The Petitioner and neighbors can discuss and see if they can reach a decision. Mr. Huber noted it refers to coordinating with neighbors and he asked who that was. Ms. McKnight asked who has ownership rights in the private way.

Mr. Alpert is uncomfortable with 3.16, 3.17 and 3.18. He agrees with Mr. Huber regarding who he would be coordinating with -- individual condo owners, the condo association or owners along Putnam and Cross Streets. Mr. Crocker noted several different plans were shown. One cut out a parking space and all agreed they did not want to lose a space. The smaller area is what they were looking for. He feels the Petitioner should coordinate with the Association Board. Ms. McKnight recalls alternate plans also. She asked if it could be added to the plan, say what should be on the sign as to parking and access and say the developer will do it? Mr. Alpert asked if you could limit private way access to residents? The law is not clear. He has seen where authority cannot deny access to traverse a private way. There could be signage on private driveways. Ms. Espada agreed with Ms. McKnight to have the plan that was shown to the Planning Board. This should not be taken out.

Ms. Newman asked if it should say "shall coordinate ~~er~~ with owners of the Gateway Condo-s" and reference the plan that the Board saw that was represented at that location. Mr. Block feels that may create a harm or disadvantage to others who live on Cross Street ~~there~~. Mr. Huber echoed the concerns Mr. Block stated. This is not definite. No plan has been presented.

It is not fair or appropriate that the Petitioner needs to do something without information or agreement. They may not be able to reach agreement. Mr. Block noted the focus is on removing 2.0 (c). As a matter of law, it is vague and there was no specific plan presented. This is requesting the Petitioner to come up with a future agreement with unknown parties. He does not see (c) as being valid. After discussion the Board agreed 2.0 (c) should come out.

Mr. Huber noted 3.5 – hours of operation. He could see circumstances where people would stay late and doctors would stay late doing paperwork after patients leave. He does not think the Board has the power to say the staff cannot operate the building after 6:00 p.m. This is an as-of-right use with no special permits. He does not think the Board has the authority to limit it and it is not reasonable. Ms. Newman noted this has been imposed on other mixed-use buildings. Ms. McKnight asked if it could be narrowed so it is open to patients 8:00 a.m. to 6:00 p.m., understanding workers may arrive earlier. Mr. Huber appreciated the comment, and he understands the desire to limit, but he would like the Board to expand the hours and maybe limit the hours only for patients. Mr. Alpert stated this is a medical office building. Doctors see patients all the time. He is not sure this is an appropriate condition. If the Board is saying doctors cannot go in on weekends to do paperwork he does not agree. He does not want a patient who is there until 7:00 p.m. to cause a complaint to the Building Commissioner. Mr. Huber agrees if there are any restrictions it should be limited to patients. He agrees with Mr. Alpert that he would prefer not to see any restrictions. He feels the time periods should be expanded and shall not be exceeded except under unforeseen emergency circumstances. Mr. Alpert would go 7:00 a.m. to 7:00 p.m. Mr. Crocker has no issue with that time. His problem is the public was told 8:00 a.m. to 6:00 p.m. at the public hearing. He has a problem with that but no issue with the change of hours. After discussion, it was decided in 3.5, patient services may be provided 6 days a week, Monday through Saturday, from 7:00 a.m. to 7:00 p.m. These hours shall not be exceeded except in emergency circumstances. Mr. Crocker noted the cleaning staff should make sure the shades are down at night for lighting.

Mr. Huber noted, in 3.16, Ms. McKnight suggested putting up a sign. That is a simpler solution and fine with them rather than coordinating with the neighbors. Mr. Crocker noted Putnam is a dead end and it is appropriate to put up a sign. Ms. McKnight suggested “the Petitioner shall erect a sign to be placed at the corner of Putnam and Cross.” Mr. Block noted it should say dead end private way with no access to Highland Avenue. All are ok with that. Mr. Huber noted, in 3.17, it says the Petitioner will coordinate with neighbors. Different people on Putnam will have different views. Can the Petitioner put barriers in a private way that would impede access and does the Planning Board have legal authority? He wants to be clearer on what they are being required to do. He asked Justin Mosca, of Vanesse Hangen Brustlin, to show the more modest drawing. Mr. Mosca does not remember a drawing. He recalls that he marked up the site plan at a prior meeting to show an island while preserving the parking space.

Mr. Alpert stated there is a note on the plan and he does not feel they need to say anything. Mr. Huber would like clarity on what is being required. ~~For~~As to the language ~~for~~of the note, he is not sure whose consent would be required. He foresees a potential scenario in which it never happens because they did not get consent and then a complaint is filed. Mr. Block feels that is a valid concern. Mr. Alpert is not sure the Petitioner has the right to do this. Ms. McKnight stated the Petitioner could figure out who has rights within Cross Street. Mr. Alpert does not think they have any rights. Only over to the middle of Cross Street and this is on the other side. No one can make improvements on a private way on their own. Ms. McKnight stated, to the extent the consent of the abutter is required, the Petitioner should get the consent.

Mr. Crocker commented at a public hearing it was stated this was part of what they were going to do to mitigate. They specifically said it would happen. Mr. Huber disagreed. Some possibilities were suggested but no one said they were going to do it. Mr. Block stated it was raised as an option but there was no concurrence by 100% of the ownership of Putnam Street. Mr. Huber suggested the Board could require, at a minimum, that the Petitioner make reasonable efforts to get the consent after finding out whose consent is needed. Mr. Crocker is ok with that. After discussion, it was decided “the Petitioner will make reasonable efforts to determine whose approval is required for the improvements on the plan as modified and to obtain such consent.” Ms. Newman will modify 3.17 and do a plan modification.

Mr. Huber suggested 3.18 should be the same as 3.16 with the same signage. The Petitioner is not coordinating, just putting the signs up. Ms. McKnight noted 3.18 should say “Petitioner shall erect appropriate signage placed at the intersection of Putnam and Cross Streets adjacent to parking by residents of Gateway Townhouses Condominium,.....” Mr. Huber is very concerned with 3.20. The language proposed by some resident is patently unreasonable to say someone will be available 24/7 and will take reasonable and immediate response. What does that mean? A future hearing of the Board to eliminate all traffic on Cross Street is very problematic. He suggested the Board check with Town Counsel Chris Heep but

he feels there is no authority for Board decisions and conditions that require future determination of substance. Abutters to Cross Street have a right to pass and repass Cross Street. This is a by right use and generates traffic. It cannot be said that the use generates traffic but the street cannot be used. Mr. Block clarified that Mr. Heep said it is not reasonable to require the owner to have someone 24/7. An owner cannot be held responsible for where a person drives their car. The issue is best dealt with signage only. He agrees with Mr. Huber 3.20 should be struck. Ms. McKnight suggested the property owner could put cameras on their buildings to protect themselves from trespassers.

Mr. Crocker agrees 24/7 is not reasonable. He noted the medical marijuana special permit had a provision that ruling the Board would revisit in 6 months to determine if all was ok. Mr. Alpert noted that was a special permit situation and this is a site plan approval. Mr. Alpert agreed 3.20 needs to come out. There will be tenants. The Petitioner cannot be held responsible. It was agreed 3.20 will come out. Mr. Huber noted in 3.21, the first sentence is no issue. After that it is the same issue that was just discussed. All agreed to remove everything after the first sentence. Mr. Huber noted in 3.24, the only issue is it says maintenance of emergency generators and testing will be one time a month. Some warranties say one time per week. He would like it changed to one time per week. This was agreed.

Mr. Huber suggested in 3.25, the last part that says "required to be removed" be struck. Ms. Newman stated the DPW recommended that for this project. Mr. Block stated it is already clear in the By-Law and it should be left in. Mr. Huber noted 3.49 feas to hours of construction. The town regulations are 7:00 a.m. to 8:00 p.m. They do not intend to work beyond 8:00 p.m. on a regular basis and typically would end around 5:00 p.m. but there are times it needs to be exceeded. He feels it should be allowed to be exceeded with Building Commissioner approval. After discussion, it was decided to say "consistent with Town By-Law which may be extended to no later than 8:00 p.m. with prior notice to, and approval by, the Building Commissioner." Ms. McKnight noted a typo on page 6, Section 1.11, 4th line, add "of" after "each." On page 18, Section 3.36, she feels there is something wrong with the wording. It was decided to delete "or impact fee." On Page 22, under Limitations, there are several references to special permits. It should say Major Project Site Plan Review Special Permit with no "s." Ms. McKnight noted in 4.6, it says the Site Plan Special Permit Amendment will lapse. This is not an amendment. She noted it is the same thing in the final 2 paragraphs.

Mr. Alpert noted on page 14, Section 3.9, handicap parking requires a special plate. He rarely sees a special plate, but he sees placards in the window. He feels this should be revised. Ms. Newman will see what the town language is and make it consistent. On page 18, Section 3.33, last sentence, it says no snow to be plowed onto Cross Street or Putnam Street. He asked if Arbor Street should be included. This was agreed. In Section 3.51 (l) and (m), it says no occupancy until prepared and filed with the Registry and the parcels have been merged. That is a lot of work. He would suggest amending (m) to allow for a temporary Certificate of Occupancy while the process is going on. The project would likely be completed before the Land Court's final order is issued. Mr. Huber stated this may take longer than they think, and he appreciated Mr. Alpert's comments. Ms. Newman is ok with this.

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 grant (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law, as modified by this decision as red lined and with changes approved at this meeting, subject to and with the benefit of the following Plan modification, conditions and limitations.

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 adopt the decision presented tonight with the red line changes as modified by the changes discussed and approved this evening.

The Board took a 5-minute recess.

Discussion of Zoning Strategies for Solar Energy Systems.

Mr. Block noted there are 5 items – ground mounted solar, solar mounted canopies, building mounted canopies, building mounted non-canopies and parking lot parking canopies. For ground mounted canopies, the treatment for height and setback needs to be resolved. Small canopies are up to 1,500 square feet in size and for height he looks for 8 feet. The height limit

is easier to screen for neighbors. Mr. Crocker stated it is reasonable to have an 8-foot height in the Single Residence B (SRB) District. In the Single Residence A (SRA) District it should go to 10 feet. If you limit to 8 feet with a medium size array you lose 3% efficiency. Screening will help cover. There should be screening on medium size arrays, but the 8-foot requirement is unnecessary. He is fine with 8 feet in SRB. In all other areas he feels it is not necessary to restrict to 8 feet. Ms. Espada asked if ground mounts are sloped and was informed they were. She asked where the 8 feet was. Mr. Crocker noted it was at the top. Ms. Espada clarified there is nothing under the ground mounted~~unclear – clarified that there is no structure?~~. It was agreed small scale and medium scale would be 10 feet everywhere but SRB and General Residence where there would be an 8-foot height limit.

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Mr. Block noted the setback will be the sides and rear in Residential and Commercial Districts. The members had already agreed to a setback at the primary structure setback. Mr. Crocker disagreed. He feels it should go to a 5-foot setback as long as there is screening. He does not want to push it further into the lot. Mr. Block clarified that Mr. Crocker wants to change to the accessory structure setback. Ms. Newman stated she has not seen setbacks as of right with screening provisions. Residential small scale is allowed as of right and medium scale is subject to site plan review. Mr. Block noted on page 5, the ground mounted setback, Mr. Crocker is looking to make it less restrictive with a screening requirement. A discussion ensued. Mr. Block suggested that Ms. Newman follow up with Town Counsel Chris Heep to see if screening could be required if modified to 5 feet.

Mr. Alpert stated that if ground mounted setback, small or medium, is to the setback of the primary structure of the district, then screening is not needed. They still have site plan review for ground mounted. A hearing is only needed if screening is closer to the setback. Mr. Block stated all medium scale are allowed by site plan review and would require screening. Mr. Crocker stated small ground mounted at the setback of the district does not need screening or site plan review. Mr. Alpert noted if less than the district setback it would require site plan review which requires screening. Ms. Espada clarified that anything small is 1,500 square feet with appropriate setback by right. A medium, which is 1,500 square feet but less than 40,000 square feet is by right with site plan review. Mr. Block noted the side and rear have been resolved and the front is only with a special permit. Mr. Crocker stated the setback from the front would be at least 12 ½ feet. If there is no screening in front, it would be pushed back to 70? feet. Mr. Block wants the front yard with a special permit. He feels any ground mount in the front yard larger than 600 square feet should require screening whatever the setback is. Ms. McKnight does not like the focus on screening. She feels the focus should be on setbacks. Ms. Newman agreed. She feels screening is hard to manage. Mr. Block stated the Board could wait on front yards and see how it goes. They could always go back to it. Mr. Alpert stated that, if accessory structures are allowed in the front yard, ground mounted solar should be allowed as long as it meets the front yard setback. Ms. Newman stated a person could have a garage and no screening is needed. She asked how screening would be enforced long term.² Mr. Block stated for the front yard, he proposes by special permit at the setback, with screening. Mr. Alpert stated if this is allowed in the initial By-Law, they can always cut it back.

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Mr. Block ~~described~~noted building mounted canopies, which is a canopy structure over the roof of a building. This use should be allowed by right subject to existing mechanical height of 15 feet in the following Districts – Mixed Use 128, Highland Commercial 128, New England Business Center and Industrial Districts. It would be allowed by site plan review and has to comply with storm water management. After discussion, it was decided to strike Industrial Districts. It would be allowed in all districts on the other side of 128 whereby Trip Advisors, Staples and You Do It are located. Ms. Espada is fine with this proposal in those districts. Mr. Alpert asked why not include the Muzi site and was informed it was due to the proximity to residential.

Mr. Block ~~described~~noted building mounted non-canopies. There are 2 installations on commercial roofs. The flat roof solar panels which would go to the edge of the building if flat. The pitched installation would be set back a length equal to the heights from the edge of the building. Mr. Crocker stated the arrays are not angled very far off the roof and are always a minimum of 4 feet from the edge of the roof. This would happen by engineering definitions. OSHA regulations have definitions and engineering practice. They could say the arrays could never be more than 2 feet high. Ms. Newman asked what is the aesthetic result they want. Mr. Block stated on page 3 and 4 of the By-Law, at a pitch of fifteen (15) degrees it would be allowed to extend one foot above the roof surface. All agreed to that. Mr. Block stated it should be set back the distance of the height of the install. Ms. McKnight stated 3 feet from the roof edge is already in the By-Law. All agree.

Mr. Block noted parking lot canopies, such as Olin College has, and canopies over parking structures such as Boston Properties has. The maximum height technically is the height of the structure. Ms. Newman stated it is the height in the

residential district or the maximum height of the principal structure. Mr. Crocker suggested 15 feet like a garage. Ms. Espada noted 15 feet or larger by special permit. She stated [Mass Department of Energy Resources \(DOER\)](#) says structure height is 11 to 17 feet for solar canopies. She would feel comfortable with 17 feet. All agree with a 17-foot maximum. It should be consistent in all districts.

Mr. Block commented on exceptions. He wants to make sure if someone has a trellis in the front yard to the front door he feels they should be able to put solar on that. He feels a reasonable height for a new structure would be 8 feet, even if inside setbacks, without requiring a special permit or site plan review, as long as the Board agrees on a height. He does not feel it needs to meet setback requirements. Ms. McKnight stated all the photos Stephen Frail provided look like structures. Mr. Crocker stated that with solar the primary purpose is solar. With these photos the primary purpose is to cover the patio. It was agreed to let this go as they are probably roof mounted. Ms. Newman will update the By-Law for the next meeting.

Minutes

There were no minutes.

Report from Planning Director and Board members.

Ms. Newman noted there is a [Housing Needham Advisory Group \(HONE\)](#) meeting tomorrow. The Consultant has run 7 different compliance scenarios which the [Committee](#) will review and modify. They will begin the conversation to plan for the workshop in January. Mr. Block stated he had a conversation with Assistant Town Manager Katie King that they may want to utilize the Council of Economic Advisors (CEA) and get any feedback from them.

Correspondence

Mr. Block noted an email, dated 11/28/23, from Stephen Frail regarding ground based solar arrays in front yards and parking structure canopies; an email, dated 12/7/23, from Paula Dickerman regarding the Planning Board/Needham Housing Authority meeting and an email, dated 12/9/23, from Gregg Darrish regarding the Planning Board Open Meeting complaint.

Mr. Block thanked the Board members for a very productive 2023.

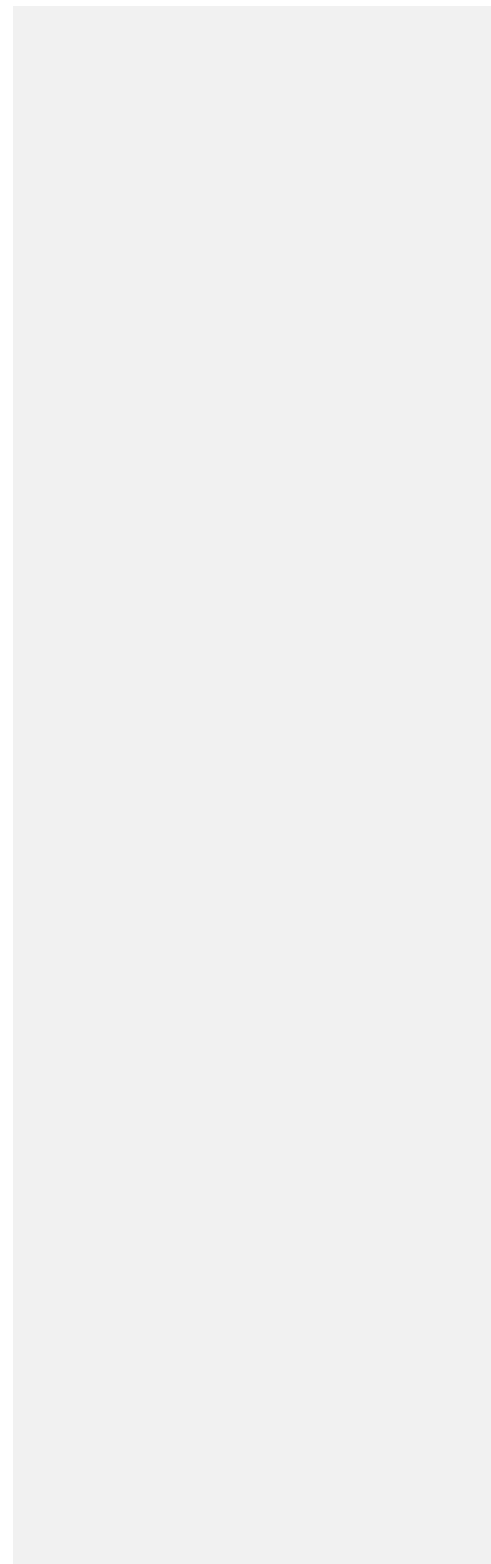
Upon a motion made by Mr. Alpert, and seconded by Mr. Crocker, it was by a vote of the five members present unanimously:

VOTED: to adjourn the meeting at 11:05 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Natasha Espada, Vice-Chairman and Clerk

DRAFT



From: [Dan Matthews](#)
To: [Planning](#)
Cc: [Lee Newman](#); [Kate Fitzpatrick](#); [Katie King](#); [Alexandra Cleo](#)
Subject: MBTA Communities Zoning and HONE Scenarios A and B
Date: Sunday, February 25, 2024 6:56:23 PM

To: Members of the Housing Needham (HONE) Committee
cc: Select Board, Planning Board, Planning Staff, Town Manager
Re: MBTA Communities Zoning and HONE Scenarios A and B

Based on following the MBTA Communities process through the HONE committee's meeting of February 15, I'm writing to offer some comments and suggestions.

1. SCENARIO A –

- a. **Framework** – The two scenario plan is a sound approach- **Scenario A** to achieve **base** MBTA Communities **compliance**, and **Scenario B** to present **additional** housing and other zoning **recommendations** to frame issues for Town Meeting to decide.
- b. **Scenario Focus:** HONE's **Scenario A should be focused on** its stated purpose of **base compliance** without additional elements. The only extension of that approach should be including moderate numerical overages (of as of right units, density, area, etc) to be clearly compliant with the Act and Guidelines.
- c. **By right development only.** Scenario A provisions should not include optional provisions not by right, requiring special permits, which are not countable under the Act.
- d. **Hersey Area:** HONE should consider including the **Charles Court East/Hamlin Lane A-1** area in Scenario A. This is for two reasons: 1. to improve the Scenario's marginal count, as the subject area is already compliant, and 2. because it is in walking distance of Hersey Station, which is otherwise not included in Scenario A. Although outside of the half mile station radius, this A-1 area could be part of 10% of countable area allowed beyond the radius.
- e. **Current Capacity:** On February 15, HONE's consultant, RKG, reported the current zoned unit capacity of the Scenario A areas as 1771 units, and "not that far off" from the target capacity of 1784 countable units.

But in the context of actual conditions, **the 1771 figure is greatly overstated**, and minimizes degree of change contained in Scenario A. Except for areas that are already zoned A-1, almost all the current capacity is subject to special permit and related requirements. That capacity is not countable for compliance, and the practical effect of the regulatory burdens is demonstrated by the very small number of units built during all the years the current zoning has been in place.

The **current countable capacity of the Scenario A area is in the low hundreds of units**. The purpose of **Scenario A is to increase to countable unit capacity to at least 1784**, chiefly by expanding multifamily development as of right.

- f. **Site Plan Review:** Scenario A should address the issue of the **scope of site plan review** by incorporating the standard provided in the MBTA Act

Guidelines into Needham's Zoning Bylaw.

In summary, that standard is: **Site plan review shall not unreasonably delay a project or impose conditions that make it infeasible or impractical to proceed with a project that is allowed as of right and complies with applicable dimensional regulations.**

Establishing such a standard is important to minimize misunderstanding and future disputes as development proceeds, and clearly confirm the town's commitment to work within the parameters of the Act.

2. SCENARIO B

- a. **Scenario B** can be a vehicle for a mix of provisions for additional units, either countable, non-countable, or both. The main tests for these additional provisions should be whether HONE believes they will help the town and whether HONE believes they can earn support of Town Meeting in October.
- b. The term "**Compliance**" has been used in some conflated contexts. Additional zoned units aren't "**non-compliant**" simply because they are **non-countable** under the guidelines- they just don't count toward compliance. Compliance is to be established by Scenario A. Countability shouldn't be a primary consideration under Scenario B. As a general principle, proposals should be considered for inclusion in Scenario B based on their merits, whether the units are countable or not.
- c. **Example:** on February 15, HONE considered A-1 zoning for a group of parcels including 888 Great Plain Avenue, but took those out of Scenario B because they're not part of a contiguous 5 acre area. Without being in a five acre area, the units wouldn't be countable, but if HONE believes that A-1 zoning for those parcels would be a benefit to the town, it should include that area in Scenario B.
- d. **Questions of Law:** HONE may want to consult town counsel as questions of law arise affecting its work. It may be helpful in some instances for counsel to seek clarification from EOHLC as this process proceeds.
- e. **Town Meeting Process:** Scenario B may become complex and unwieldy, at risk of failing at Town Meeting if presented as a single article. HONE may consider recommending some elements as separate articles, or defer some for further consideration and decision next year.

Thank you for your consideration of this and your involvement in this important project.

Sincerely

Dan Matthews
31 Rosemary Street
339-225-1677

From: [Susan Welby](#)
To: [Planning](#)
Subject: Linden Chambers Zoning
Date: Wednesday, February 28, 2024 1:37:02 PM

I attended the public hearing on the Linden Chambers rezoning, but did not rise to speak because there were many others who spoke.

I would like to add my full support to the rezoning as proposed. This project, if allowed to move forward, will enhance the quality of life for the entire town. Without the zoning change the Housing Authority has very few options to make the necessary improvements needed to the Housing Authority property. It is good for the neighborhood and good for the town.

Susan Welby
857 Webster Street
Precinct G Town Meeting Member