

NEEDHAM PLANNING BOARD

Tuesday September 22, 2020

7:15 p.m.

Virtual Meeting using Zoom

Meeting ID: **826-5899-3198**

(Instructions for accessing below)

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

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

1. Request to discuss changes to the approved plan as well as request for Temporary Occupancy: Amendment to Major Project Site Plan Special Permit No. 2016-01: 57 Dedham Ave LLC, 471 Hunnewell Street, Needham, MA, Petitioner. (Property located at 15 & 17 Oak Street, Needham, Massachusetts).
2. Special Town Meeting Zoning Articles: Town Meeting Preparation.
3. Minutes.
4. Correspondence.
5. Report from Planning Director and Board members.

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

GEORGE GIUNTA, JR.
ATTORNEY AT LAW*
281 CHESTNUT STREET
NEEDHAM, MASSACHUSETTS 02492
*Also admitted in Maryland

TELEPHONE (781) 449-4520

FAX (781) 449-8475

September 14, 2020

Planning Board
Town of Needham
500 Dedham Avenue
Needham, MA 02492
Attn: Lee Newman, Planning Director

Re: 57 Dedham Ave, LLC
15 & 17 Oak Street, Needham, MA
Major Project Site Plan Decision, SPMP 2016-01

Dear Lee,

As you know, this office represents 57 Dedham Ave, LLC and its principal, Michael Tedoldi (hereinafter, the "Applicant") relative to the commercial properties numbered 15 and 17 Oak Street, Needham, MA (hereinafter, together, the "Premises"). Those properties are the subject of Major Project Site Plan Decision, SPMP 2016-01, as amended, which permitted the demolition of two prior existing buildings and the construction of one new building, containing residential units on the second floor and medical office on the first floor, together with associated parking and site improvements. To that end, submitted herewith please find as-built architectural plans and as-built site plan. Affidavits will be forthcoming.

While a couple of minor items remain, discussed below, construction of the new building and the related site improvements is substantially complete, and the second floor residential units are just about ready for occupancy. Therefore, the Applicant requests permission to use and occupy the second floor residential units. This request is solely for the second floor and does not include the first floor commercial space. Occupancy of the first floor will be requested at a later date.

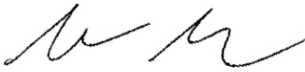
With respect to the items that remain incomplete, they include installation of final landscaping (partial landscaping has already been installed), front steps, walkways and driveway entrance. As of this letter, those items are all expected to be complete next week. In addition, when NStar installed the electrical transformer, they refused to install it in the originally proposed location (on the right side of the property, to the right of the new building). Instead, it was installed on the left side of the property, to the left of the parking area. NStar also required installation of a new pole, as depicted on the surveyor's as-built plan submitted herewith. Whereas this is a deviation from the approved plan, it requires review and approval by the Board.

The project has already suffered substantial, unanticipated delays due, in large part, to the impact of Covid-19. Moreover, there are now tenants waiting to occupy the second floor units.

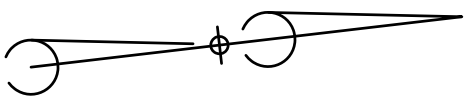
Therefore, while a few items remain incomplete as of this letter, it is requested that occupancy of the second floor residential units be authorized in any event, so that when complete, there is no further delay.

Therefore, please schedule this request for the next available meeting of the Board. In the meantime, if you have any questions, comments or concerns relative to the foregoing or if you require any further information, please do not hesitate to let me know. I will submit the affidavits upon receipt.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Giunta", written in a cursive style.

George Giunta, Jr.

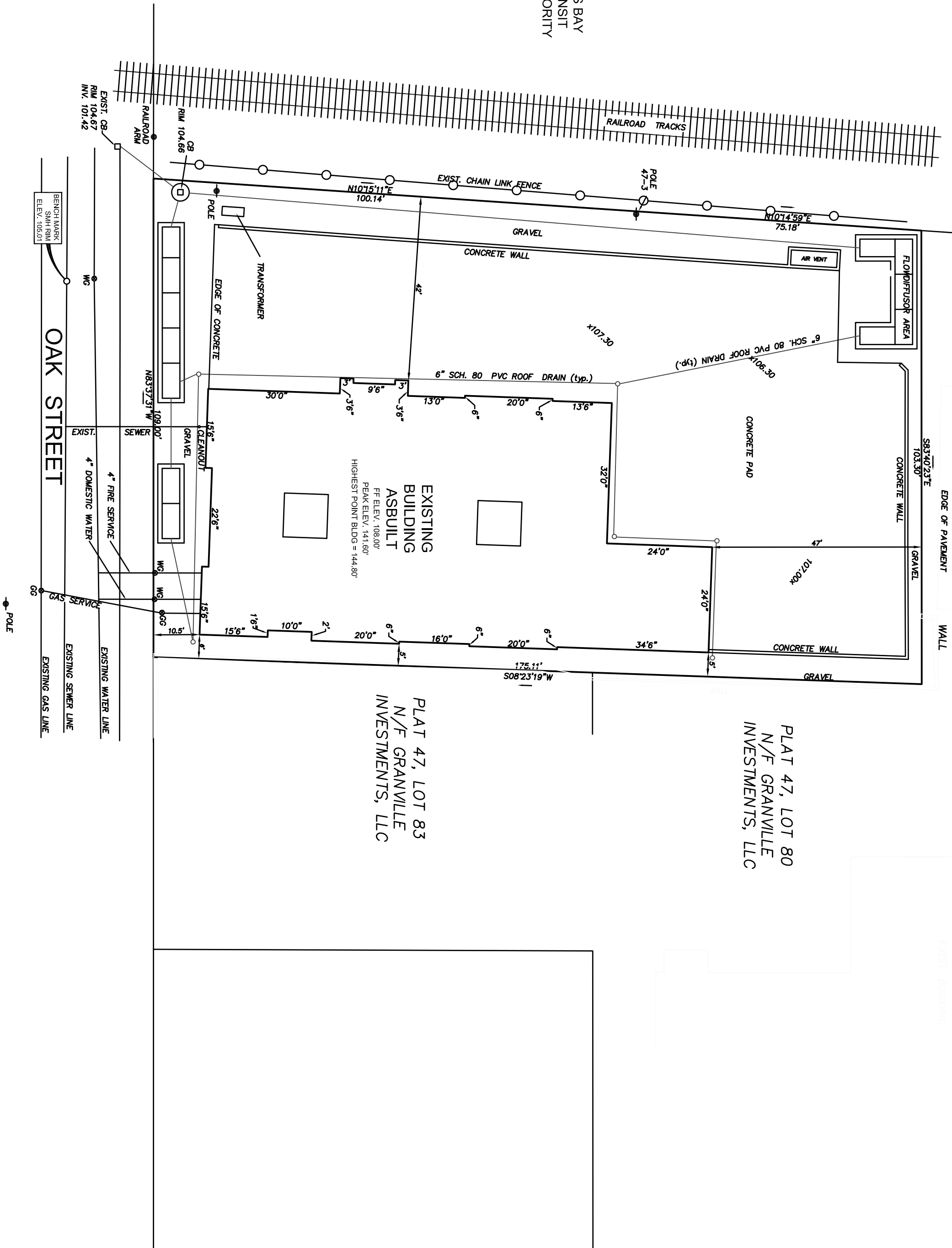


MASS BAY
TRANSIT
AUTHORITY

PLAT 47, LOT 80
N/F GRANVILLE INVESTMENTS, LLC

PLAT 47, LOT 80
N/F GRANVILLE
INVESTMENTS, LLC

PLAT 47, LOT 83
N/F GRANVILLE
INVESTMENTS, LLC



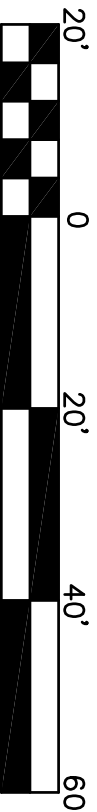
ZONING DISTRICT: CHESTNUT STREET BUSINESS
MINIMUM LOT AREA: 10,000 Sq. Ft.
MINIMUM LOT FRONTAGE: 80 Ft.
MINIMUM SETBACKS:
FRONT: 10 Ft.
SIDE (adjacent to MBTA only): 10 Ft.
REAR: N/A



INSITE Engineering Services, LLC
PROFESSIONAL ENGINEERS | LAND SURVEYORS
Precision. Clarity. Certainty.
501 Great Road
Unit 104
North Smithfield, RI 02896
Tel: (401) 762-2870
Fax: (401) 762-2871
Web: insiteengineers.com

AS-BUILT
OF
15-17 OAK STREET
ASSESSORS PLAT 47 LOTS 81 & 82
NEEDHAM, MASSACHUSETTS
PREPARED FOR
7 DEDHAM AVE, LLC
PO BOX 920298
NEEDHAM, MA 02492

SCALE: 1" = 20' DATED: September, 15, 2020



JOB NUMBER: 14-037 SHEET NUMBER: 1 OF 1

From: [Lee Newman](#)
To: ["George Giunta Jr"](#)
Cc: [Alexandra Clee](#)
Subject: RE: 15-17 Oak Street - Request for Second Floor Occupancy
Date: Wednesday, September 16, 2020 3:16:34 PM
Attachments: [SPMP 2016-01 - 57 Dedham LLC, 15 & 17 Oak Street.pdf](#)

Hi George,

George can you clarify the status on the completion of the elevator and parking garage. They both will need to be completed before occupancy can be approved.

I have reviewed the materials that you provided for the Oak Street project and they do not meet the minimum standards required under Section 3.27 of the permit (Copy Attached). I have outlined the issues below:

1. The as-built plan provided is really a plot plan not an as-built site plan. It does not show utilities, parking, landscaping (partial) etc. The plan is not sufficient for Engineering's inspection or for our review and approval. It will also require a zoning compliance table. Section 3.2.7 (a) of the Decision details the information that is to be provided.
2. The decision requires under Section 3.2.7 (c) submittal of a Final Construction Control Document signed by a registered architect upon completion of construction. This should detail the areas of the building to be occupied and should include the residential units, the elevator, and the garage. This is the same document required by the Building Commissioner. It has not been provided.
3. The decision requires under Section 3.2.7 (d) an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations. This has not been provided.
4. The certification provided by the architect does not reference the correct site plan.
5. The architectural plans submitted by the architect are the Board's approved set. They are not titled, as as-built drawings. They are not dated for the as-built condition.
6. Please provide a list of outstanding work items along with an estimate of cost for those items.
7. We need a certification from an Engineer on the project. And one from a landscape architect (unless the Engineer certification includes landscaping).

We can add you to the agenda on Sept 22, but it will be to discuss with the Board the relocation of the transformer and the addition of the utility pole. I will need the above materials to move forward with the occupancy permit.

Thanks,

Lee

From: George Giunta Jr <george.giuntajr@needhamlaw.net>
Sent: Tuesday, September 15, 2020 12:36 PM
To: Lee Newman <LNewman@needhamma.gov>

Cc: Alexandra Clee <aclee@needhamma.gov>

Subject: Re: 15-17 Oak Street - Request for Second Floor Occupancy

Hi Lee and Alex,

Following up on my email yesterday, attached please find the affidavits of both the surveyor and architect.

Regards,

George

George Giunta Jr, Esq.

281 Chestnut Street

Needham, MA 02492

Tel: 781.449.4520

Fax: 781.465.6059

george.giuntajr@needhamlaw.net

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On Sep 14, 2020, at 2:51 PM, George Giunta Jr, Esq.

<george.giuntajr@needhamlaw.net> wrote:

Good afternoon Lee and Alex,

Attached please find letter and as-built plans for 15-17 Oak Street.

As indicated, Michael is near completion and is requesting occupancy of the second floor residential units.

Only the second floor is requested at this time; the first floor commercial space will be requested at a later date.

If possible, please put this on the agenda for next week's meeting, even if just for a discussion.

Whereas NStar required the transformer to be installed in a different location than originally proposed, we will need to review same with the Board.

And because the project has already been substantially delayed due to Covid-19, we are trying to avoid any further delay for the tenants waiting to occupy the residential units.

Regards,
George

<Oak Street 2nd Floor Occupancy Req.pdf>
<14-037 Tedoldi As-built Oak Street.pdf>
<Oak Street Stamped Set.pdf>

George Giunta Jr, Esq.
281 Chestnut Street
Needham, MA 02492
Tel: 781.449.4520
Fax: 781.465.6059
george.giuntajr@needhamlaw.net

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TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

RECEIVED TOWN CLERK
NEEDHAM, MA 02492
2016 NOV - 8 PM 12: 19

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

PLANNING

First Amended and Restated Major Project Site Plan Special Permit No. 2016-01

November 1, 2016

(Original Decision dated March 29, 2016)

15 & 17 Oak Street, Needham, MA

57 Dedham Ave LLC

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of 57 Dedham Avenue LLC, 471 Hunnewell Street, Needham, MA, for property located at 15 & 17 Oak Street, Needham, Massachusetts. Said property is located in the Chestnut Street Business Zoning District and is shown on Needham Town Assessors Plan No. 47 as Parcels 81 and 82 containing 18,571.26 square feet.

This decision is in response to an application submitted to the Board on August 25, 2016, by the Petitioner for: (1) a Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 4.2 of Major Project Site Plan Special Permit No. 2016-01; (2) a Special Permit under Section 1.4.6 of the By-Law for the change and extension of a lawful, pre-existing, non-conforming use, and the alteration and enlargement and reconstruction of a lawful, pre-existing, non-conforming structure; (3) a Special Permit under Section 3.2.2 of the By-Law for apartment or multifamily dwelling use on the second floor and half story directly above; (4) a Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot; (5) a Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements) of the By-Law; and (6) a Special Permit under Section 4.4 of the By-Law to exempt the floor area of underground parking from being counted as floor area for purposes of determining maximum floor area ratio.

The requested Major Project Site Plan Special Permit, would, if granted, permit the Petitioner to demolish two existing commercial buildings, and construct a new 12,915 square foot, two and one-half story building with associated site improvements, including 45 parking spaces. The building would be a mix of uses – medical office and residential. A similar proposal was approved by the Planning Board in early 2016. The design has subsequently been revised to, among other things, include a substantial amount of underground parking and to reconfigure the proposed new building.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Elizabeth J. Grimes on Tuesday, September 27, 2016 at 7:30 p.m. in the Charles River Room of the Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. No testimony was taken at the September 27, 2016 hearing. The hearing was continued to Tuesday, October 18, 2016 at 7:00 p.m., in the Charles River Room at the Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. The hearing was further continued to Tuesday, November 1, 2016 at 7:30 p.m., in the Charles River Room at the Public Services Administration Building, 500 Dedham Avenue, Needham, Massachusetts. Board members Elizabeth J. Grimes,

Paul S. Alpert, Martin Jacobs, Jeanne S. McKnight and Ted Owens were present throughout the proceedings. The record of the proceedings and the submission upon which this decision is based may be referred to in the office of the Town Clerk or the office of the Board.

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

- Exhibit 1 -** Application Form for Site Plan Review completed by the Petitioner's representative dated August 25, 2016 with Addendum A.
- Exhibit 2 -** Letter from Michael Tedoldi, Manager, 57 Dedham Avenue LLC, dated August 24, 2016.
- Exhibit 3 -** Letter from Attorney George Giunta Jr. to the Needham Planning Board dated August 24, 2016.
- Exhibit 4 -** Drainage Report for Building Re-Development, 15 & 17 Oak Street, Needham, MA, prepared by Nicholas J. Piampiano, 7 Countryside Lane, Scituate RI, 02857, dated October 2015.
- Exhibit 5 -** Plan prepared by McKay Architects, 33 Bryant Street, Dedham, MA, entitled "Mixed-Use Building, 15-17 Oak Street, Needham, MA", consisting of 9 sheets: Sheet 1, Sheet L-1.1, entitled "Site Plan," dated July 29, 2016, revised August 9, 2016; Sheet 2, Sheet A-1.1, entitled "Garage Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 3, Sheet A-1.2, entitled "First Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 4, Sheet A-1.3, entitled "Second Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 5, Sheet A-1.4, entitled "Attic Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 6, Sheet A-2.1, entitled "Front Elevation," dated July 29, 2016, revised August 9, 2016; Sheet 7, Sheet A-2.2, entitled "Right Side Elevation," dated July 29, 2016, revised August 9, 2016; Sheet 8, Sheet A-2.3, entitled "Rear Elevations," dated July 29, 2016, revised August 9, 2016; Sheet 9, Sheet A-2.4, entitled "Left Side Elevation," dated July 29, 2016, revised August 9, 2016.
- Exhibit 6 -** Plan prepared by Advanced Civil Design, Inc., 7 Countryside Lane, Scituate, RI 02857, Marc N. Nyberg Associates, Inc., 501 Great Road, Unit 104, North Smithfield, RI 02896, consisting of 1 sheet, entitled "Site Plan for 15 & 17 Oak Street, Plat 47, Lots 81 & 82, Needham, MA," dated October 2015, revised November 12, 2015, November 16, 2015, November 17, 2015, December 2, 2015, January 18, 2016, February, 2016, August 25, 2016.
- Exhibit 7 -** Plan prepared by Advanced Civil Design, Inc., 7 Countryside Lane, Scituate, RI 02857, Marc N. Nyberg Associates, Inc., 501 Great Road, Unit 104, North Smithfield, RI 02896, consisting of 1 sheet, entitled "Site Plan for 15 & 17 Oak Street, Plat 47, Lots 81 & 82, Needham, MA," dated October 2015, revised November 12, 2015, November 16, 2015, November 17, 2015, December 2, 2015, January 18, 2016, February, 2016 and August 25, 2016. Revised draws submitted on October 4, 2016.
- Exhibit 8 -** Plan prepared by McKay Architects, 33 Bryant Street, Dedham, MA, entitled "Mixed-Use Building, 15-17 Oak Street, Needham, MA", consisting of 8 sheets: Sheet 1, Sheet A-1.1, entitled "Garage Floor Plan," dated July 29, 2016, revised

August 9, 2016 and September 29, 2016; Sheet 2, Sheet A-1.2, entitled "First Floor Plan," dated July 29, 2016, revised August 9, 2016 and September 29, 2016; Sheet 3, Sheet A-1.3, entitled "Second Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 4, Sheet A-1.4, entitled "Attic Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 5, Sheet A-2.1, entitled "Front Elevation," dated July 29, 2016, revised August 9, 2016 and September 29, 2016; Sheet 6, Sheet A-2.2, entitled "Right Side Elevation," dated July 29, 2016, revised August 9, 2016 and September 29, 2016; Sheet 7, Sheet A-2.3, entitled "Rear Elevations," dated July 29, 2016, revised August 9, 2016 and September 29, 2016; Sheet 8, Sheet A-2.4, entitled "Left Side Elevation," dated July 29, 2016, revised August 9, 2016 and September 29, 2016.

Exhibit 9 - Plan prepared by Mckay Architects, 33 Bryant Street, Dedham, MA, entitled "Mixed-Use Building, 15-17 Oak Street, Needham, MA", Sheet A-1.1, entitled "Garage Floor Plan," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016.

Exhibit 10 - Plan prepared by Mckay Architects, 33 Bryant Street, Dedham, MA, entitled "Mixed-Use Building, 15-17 Oak Street, Needham, MA", consisting of 4 sheets: Sheet 1, Sheet A-2.1, entitled "Front Elevation," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016; Sheet 2, Sheet A-2.2, entitled "Right Side Elevation," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016; Sheet 3, Sheet A-2.3, entitled "Rear Elevations," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016; Sheet 4, Sheet A-2.4, entitled "Left Side Elevation," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016.

Exhibit 11 - Plan prepared by Mckay Architects, 33 Bryant Street, Dedham, MA, entitled "Mixed-Use Building, 15-17 Oak Street, Needham, MA", consisting of 8 sheets: Sheet 1, Sheet A-1.1, entitled "Garage Floor Plan," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016; Sheet 2, Sheet A-1.2, entitled "First Floor Plan," dated July 29, 2016, revised August 9, 2016 and September 29, 2016; Sheet 3, Sheet A-1.3, entitled "Second Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 4, Sheet A-1.4, entitled "Attic Floor Plan," dated July 29, 2016, revised August 9, 2016; Sheet 5, Sheet A-2.1, entitled "Front Elevation," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016; Sheet 6, Sheet A-2.2, entitled "Right Side Elevation," dated July 29, 2016, revised August 9, 2016 and September 29, 2016; Sheet 7, Sheet A-2.3, entitled "Rear Elevations," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016; Sheet 8, Sheet A-2.4, entitled "Left Side Elevation," dated July 29, 2016, revised August 9, 2016, September 29, 2016 and October 18, 2016.

Exhibit 12 - Plan prepared by Advanced Civil Design, Inc., 7 Countryside Lane, Scituate, RI 02857, Marc N. Nyberg Associates, Inc., 501 Great Road, Unit 104, North Smithfield, RI 02896, consisting of 1 sheet, entitled "Site Plan for 15 & 17 Oak Street, Plat 47, Lots 81 & 82, Needham, MA," dated October 2015, revised November 12, 2015, November 16, 2015, November 17, 2015, December 2, 2015, January 18, 2016, February, 2016, August 25, 2016 and October 26, 2016.

- Exhibit 13 -** Letter from Attorney George Giunta Jr. to the Needham Planning Board dated October 13, 2016.
- Exhibit 14 -** Letter from Attorney George Giunta Jr. to the Needham Planning Board dated October 13, 2016.
- Exhibit 15 -** Letter from David A. Roche, Building Commissioner, to the Needham Planning Board dated October 13, 2016.
- Exhibit 16 -** Interdepartmental Communication (IDC) to the Board from Lt. John H. Kraemer, Needham Police Department, dated September 22, 2016 and October 18, 2016; IDC to the Planning Department from Chief Dennis Condon, Needham Fire Department, dated September 21, 2016 and October 17, 2016; IDC to the Board from Thomas Ryder, Assistant Town Engineer, dated September 22, 2016, October 13, 2016 and November 1, 2016; and IDC to the Board from Tara Gurge, Health Department, dated September 22, 2016.

Exhibits 1, 2, 3, 4, 11 and 12 are referred to hereinafter as the Plan.

FINDINGS AND CONCLUSIONS

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

- 1.1 The subject property is located in the Chestnut Street Business District at 15 and 17 Oak Street, Needham, MA. The said property is shown on Needham Town Assessors Plan No. 47 as Parcels 81 and 82 and contains approximately 18,571.26 square feet. The property is owned by 57 Dedham Avenue LLC, 471 Hunnewell Street, Needham, MA.
- 1.2 The site is presently fully developed, with each of the existing lots being currently occupied by an office building, associated driveways, walkways and parking. There is very little landscaping on either lot at present, excepting only a small amount in the very front of the building at 17 Oak Street. The property at 15 Oak Street is accessed via a narrow driveway that crosses the property at 17 Oak Street. The existing building at 15 Oak Street appears to originally have been built in 1904. It consists of approximately 4,138 square feet of occupied floor area, distributed among the basement, first and second floors. The space is used for office and medical office purposes. The existing building at 17 Oak Street appears to originally have been built in 1906. It consists of approximately 4,548 square feet of medical offices.
- 1.3 The Petitioner proposes to demolish two existing commercial buildings, and construct a new 12,915 square foot, two and one-half story building with associated site improvements, including 45 parking spaces. The building would be a mix of uses – medical office and residential. A similar proposal was approved by the Planning Board in early 2016. The design has subsequently been revised to, among other things, include a substantial amount of underground parking and to reconfigure the proposed new building. The garage floor contains parking for 32 cars. The first floor is proposed to be used primarily for medical office purposes. The second floor is proposed to contain in part medical office use and two residential dwelling units. The half story directly above is proposed to be occupied by three additional residential dwelling units. The residential units on the second floor and half story directly above will contain 5 total units, each with one bedroom.

- 1.4 The existing roadway conditions are such that Oak Street, an east/west roadway, is south of the said property; the MBTA railroad right of way is located to the west.
- 1.5 In connection with the proposed redevelopment of the site, the Petitioner is also proposing to change, alter and reconfigure the parking and driveway area to provide 13 parking spaces at the surface level, including two handicapped spaces in the rear of the building. The Petitioner also proposes to construct an underground parking garage with 32 parking spaces. Access to the surface parking lot and the underground garage will be provided off of Oak Street. As a part of the site improvements, the Petitioner is proposing to install new landscaping as well as stormwater infiltration system on site.
- 1.6 As indicated above, the proposed new building will be used for medical office purposes on the first floor and part of the second floor, and residential purposes on part of the second floor and half story directly above. Pursuant to Section 3.2.2 of the By-Law, the use of property in the Chestnut Street Business District for medical office purposes is permitted as of right, and apartments are allowable by special permit. Therefore, the proposed use of the new building is allowed by right, in part, and allowable by special permit, in part.
- 1.7 The By-Law, Section 4.4.1 requires that the minimum lot area be 10,000 square feet and the minimum lot frontage be 80 feet. The proposed development, having a lot with an area of approximately 18,571.26 square feet and 109 feet of frontage on Oak Street, complies with the minimum frontage and the minimum area requirements.
- 1.8 The By-Law, Section 4.4.4 requires a minimum front setback of 10 feet. The proposed building is to have a front setback of 10.5 feet from Oak Street at its closest point. Therefore, the proposed new building complies with the applicable setback requirements.
- 1.9 The By-Law, Section 4.4.2 (c) allows a maximum floor area ratio (FAR) of 0.7 or 12,999.88 square feet in the subject case. The proposed new building will contain a total of 12,865 square feet; 134.88 square feet less than the maximum permitted. In addition, the basement level will be occupied by a parking garage. Provided the Planning Board issues a special permit waiving inclusion of the underground parking garage in the FAR calculation, the floor area will remain less than the maximum allowed by the By-Law, and the proposed new building will comply with the applicable FAR requirement.
- 1.10 Pursuant to Section 4.4.3 the maximum height allowed as of right in the Chestnut Street Business District is two and one-half (2 ½) stories, not to exceed 35 feet; with commercial use prohibited above the second floor and residential use allowed on the second floor and the half story directly above. Whereas the proposed new building is two and one-half stories with a height of 35 feet; and whereas the commercial use is limited to the first floor with the second floor and half story directly above being used for residential purposes, the proposed new building will comply with the height limitations of the By-Law.
- 1.11 The By-Law, Section 4.4.5, further requires that no more than two driveways be permitted for every 150 feet of frontage, and two-way driveways of the kind proposed for the premises must be no less than 18 feet wide and no more than 25 feet wide. Whereas only one driveway is proposed, and whereas the driveway is 24 feet wide, same complies with the applicable driveway opening conditions of Section 4.4.5.

1.12 The By-Law, Section 4.4.9, requires that first-floor businesses shall have individual entrances accessed from the exterior of the building. Building entrances providing access to first and second-floor space shall be available from one or more streets on which the building fronts. Whereas both the first floor medical office space and the residential units above have entrances from the front exterior of the building, facing Oak Street, the premises complies with the requirements of Section 4.4.9.

1.13 The By-Law, Section 4.4.8.2, requires that:

“No building or structure for business use shall be placed or constructed within fifty (50) feet of the residential district boundary, and within said strip, the twenty-five (25) feet closest to the district boundary shall be suitably landscaped per specifications outlined below, and there shall be no accessory use. The remaining twenty-five (25) feet may be used for an accessory use not including a building or structure. Where a lot in the Chestnut Street Business District is adjacent to the MBTA commuter railroad right of way, the 50-foot buffer requirement shall not apply; however, adjacent to said right of way there shall be a 10- foot buffer which shall be suitably landscaped per the specifications outlined below and which shall not be used for any purpose.”

While the premises does not adjoin a residential district, it is adjacent to the MBTA commuter railroad right of way. As a result, the By-Law requires a 10 foot buffer. The proposed building (underground parking structure) is to have a setback of 10 feet from the MBTA commuter railroad right of way at its closest point. Therefore, the proposed new building complies with the applicable setback requirement. Additionally, the plan provides for landscaping within the 10 foot buffer area.

1.14 Under the By-Law, Section 5.1.2, 1 parking space per 200 square feet of floor area is required for the Medical Office use for a total of 35.24 spaces required ($7,048 \text{ square feet} / 200 = 35.24$), rounded up to 36 spaces. 1.5 parking spaces per each residential unit is required for the five residential units, for a total of 7.5 spaces (rounded up to 8 spaces). As a result the parking demand for the site is 44 parking spaces. The Petitioner is proposing to install a total of 45 spaces, 13 of which are located at the rear of the building, and 32 of which are located in an underground parking garage. All the spaces are accessed from a single, two-way maneuvering aisle. As a result, sufficient parking is provided, pursuant to the By-Law. Moreover, the two uses of the building are anticipated to have different peak parking times, with the medical office use requiring more spaces during the day and the residential use requiring more spaces in the evening and at night.

1.15 The spaces as designed comply with all aspects of the Parking Plan and Design Requirements set forth at Section 5.1.3 of the By-Law except one. One waiver is required and requested by the Petitioner under this Section. The illumination proposed is limited to the lights mounted on the building, which are expected to produce an average illumination level of less than one foot candle in the parking area, instead of the requirement of an illumination level of an average of one foot candle required pursuant to Section 5.1.3(a).

1.16 Protection of adjoining premises against seriously detrimental uses by provision for surface water drainage, sound and sight buffers and preservation of views, light and air has been assured. The Board finds that the use of the premises for medical office, and residential purposes does not constitute “seriously detrimental use.” The premise is to be connected to the municipal storm drain system. Surface water drainage will be improved

over the existing conditions and adequate provision has been made for same. Considering that the premises is bounded to one side by the MBTA railroad right of way and to the other side by commercial properties in the Chestnut Street Business District, no additional sound and sight buffers are required, and with the redevelopment of the site, views, light and air are not materially affected.

- 1.17 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets has been assured. The proposed building will feature separate entrances for the medical office space and the residential units, accessed both from Oak Street and the rear parking area, as well as from the garage level. Furthermore, the design and the location of the proposed driveway and the location and design of the parking areas and underground garage are adequate, safe and convenient for vehicular movement.
- 1.18 The arrangement of parking and loading spaces is adequate, based on the layout, site and proposed mix of uses for the building. Both the residential units on the second floor and half story directly above, and the proposed medical offices on the first floor and second floor are expected to require limited arrangements for loading.
- 1.19 Adequate methods of disposal of refuse and other wastes resulting from the uses of the site have been provided. No significant waste will be generated in connection with the use of the property for residential or medical office purposes. Any trash, waste and debris will be removed from the site on a regular basis, as necessary and appropriate.
- 1.20 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area are in compliance with other requirements of this By-law and have been adequately addressed by this project. The property is bounded on two sides by commercial properties and on the third side by the MBTA railroad right of way. As a result, the proposed development for medical office and residential purposes is not anticipated to have any significant negative effect on any community asset or any adjacent landscape.
- 1.21 The Project will not have an adverse effect on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The facility will not generate large numbers of motor vehicles and the project has been designed to accommodate fire and other emergency services. The project will connect to the Town's water system that is located in Oak Street. This area of the Town has good pressure and flow characteristics sufficient to meet the needs of this property. The project will connect to the Town's sewer system by means of connecting to the sewer main located in Oak Street.
- 1.22 Under Section 7.4 of the By-Law, a Major Project Site Plan Review Special Permit may be granted in the Chestnut Street Business District, if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds that the proposed development Plan, as conditioned and limited herein for the site plan review, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements, to have minimal adverse impact and to have promoted a development which is harmonious with the surrounding area.
- 1.23 Under Section 3.2.2 of the By-Law, a Special Permit may be granted for apartment or multifamily dwelling use on the second floor in the Chestnut Street Business District. On the basis of the above findings and conclusions, the Board finds the proposed

development Plan, as conditioned and limited herein, to be in harmony with the general purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the detriment to the Town's and neighborhood's inherent use.

- 1.24 Under Section 5.1.1.5 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.3 of the By-Law (Off-Street Parking Requirements) more specifically, in Section 5.1.3(a), as further described in Section 1.15 above, may be granted provided the Board finds that owing to special and unique circumstances, the particular use, structure or lot does not warrant the application of certain design requirements. On the basis of the above findings and conclusions, the Board finds that there are special and unique circumstances justifying the waiver of the above-noted requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.
- 1.25 Under Section 4.4 of the By-Law, a Special Permit may be granted to exempt the floor area of underground parking devoted in whole or in part to the parking of automobiles from being counted as floor area for purposes of determining maximum floor area ratio. On the basis of the above findings and conclusions, the Board finds that there are special and unique circumstances justifying the waiver of the above-noted requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Major Project Site Plan Special Permit under Section 7.4 of the Needham Zoning By-Law and Section 4.2 of Major Project Site Plan Special Permit No. 2016-01; (2) the requested Special Permit under Section 3.2.2 of the By-Law for apartment or multifamily dwelling use on the second floor and half story directly above; (3) the requested Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot; (4) the requested Special Permit under Section 5.1.1.5 of the By-Law to waive strict adherence with the requirements of 5.1.3 (Parking Plan and Design Requirements) of the By-Law; and (5) the requested Special Permit under Section 4.4 of the By-Law to exempt the floor area of underground parking from being counted as floor area for purposes of determining maximum floor area ratio, as modified by this decision; subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

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

- 2.0 The Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement.
- a) The "Parking Plan and Design Requirements" compliance table on the site plan shall be revised to be consistent with the waivers requested under the Section 5.1.3 requirement.
 - b) The Parking Table shall be revised to show 45 parking spaces provided rather than 44.
 - c) The site plan shall be revised to show the location of the transformer and the appropriate screening of said transformer.
 - d) The site plan shall be revised to show parking spaces 1 and 2 in the parking garage designated as Employee Parking Only.
 - e) A complete landscaping plan signed by a landscape architect and/or landscape contractor shall be submitted. The plan shall show the location of turf, trees, shrubs, walks, and fences and shall provide a typical planting detail for trees and shrubs; list the botanical and common names of all plants with the quantity of each and size of all proposed plants provided.
 - f) A sidewalk shall be shown along the entire frontage of the premises.

CONDITIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.33 hereof.
- 3.1 The building, parking areas, driveways, walkways, landscape areas, and other site and off-site features shall be constructed in accordance with the Plan, as modified by this decision. Any changes, revisions or modifications to the Plan, as modified by this decision, shall require approval by the Board.
- 3.2 The proposed building and support services shall contain the dimensions and shall be located on that portion of the locus exactly as shown on the Plan, as modified by this decision, and in accordance with the applicable dimensional requirements of the By-Law.
- 3.3 The first floor space of the building shall be used exclusively for medical office purposes. The second floor space shall be medical office and residential. The half story directly above the second story shall be used exclusively for residential purposes. The basement level shall contain parking spaces for 32 automobiles. Any changes, revisions or modifications to the Plan, as modified by this decision, shall require approval by the Board. Notwithstanding the forgoing, minor movement of fixed equipment and interior partitions shall be allowed without further Board action provided the use allocation as shown on the plan is maintained.
- 3.4 The medical office may be open for business seven days per week: Monday through Sunday, 8:00 AM to 6:00 PM.

- 3.5 Prior to the issuance of a building permit the Petitioner shall prepare and shall file with the Board and the Norfolk County Registry of Deeds a plan which shows assessor's Plan 47, Parcels 81 and 82 merged, using customary surveyor's notation. There shall be no further subdivision of lot except by amendment of this approval by the Board. All buildings and land constituting the premises shall remain under a single ownership.
- 3.6 Sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this decision, and that there shall be no parking of motor vehicles off the locus at any time except in designated legal on-street parking areas. The leasing plan shall not allow the allocation of parking spaces to tenants in excess of the available number.
- 3.7 Forty-five (45) parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this decision. All off-street parking shall comply with the requirements of Section 5.1.3 of the By-Law, except as otherwise waived by this decision.
- 3.8 All required handicapped parking spaces shall be provided including above-grade signs at each space that include the international symbol of accessibility on a blue background with the words "Handicapped Parking Special Plate Required Unauthorized Vehicles May Be Removed At Owners Expense". The quantity & design of spaces, as well as the required signage shall comply with the M.S.B.C. 521 CMR Architectural Access Board Regulation and the Town of Needham General By-Laws, both as may be amended from time to time.
- 3.9 A sidewalk shall be provided along the entire frontage of the premises. The proposed new sidewalk on Oak Street shall be built to Town of Needham specifications. All new utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.10 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if applicable.
- 3.11 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit.
- 3.12 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges. The Petitioner shall connect the sanitary sewer line only to known sources. All sources that cannot be identified shall be disconnected and properly sealed.
- 3.13 The construction, operation and maintenance of the subsurface infiltration facility, on-site catch basins and pavement areas, shall conform to the requirements outlined in the EPA's Memorandum of Understanding signed by the Needham Board of Selectmen.
- 3.14 The Storm Water Management Policy form shall be submitted to the Town of Needham signed and stamped and shall include construction mitigation and an operation and maintenance plan as described in the policy.
- 3.15 The Petitioner shall comply with the Public Outreach & Education and Public Participation & Involvement control measures required under NPDES. The Petitioner

shall submit a letter to the DPW identifying the measures selected and dates by which the measures will be completed.

- 3.16 The Petitioner shall provide a landscape buffer along the MBTA railroad right of way as shown on the plan. Said landscape buffer shall screen the subject property from the active MBTA use.
- 3.17 All solid waste shall be removed from the site by a private contractor, as and when necessary. Snow shall also be removed or plowed by private contractor, as and when necessary. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced.
- 3.18 All deliveries and trash pick-up shall occur only between the hours of 8:30 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. Trash shall be removed from the building as necessary and shall not be stored in dumpsters or external containers.
- 3.19 All lights shall be shielded and adjusted during the evening hours to prevent any annoyance to the neighbors. The Petitioner shall utilize the exterior lighting located on the exterior of the building to shine down and provide basic and adequate security. No external parking lot lights are authorized under this decision.
- 3.20 The maintenance of landscaping, as shown on the Plan, as modified by this decision, shall be the responsibility of the Petitioner.
- 3.21 Any portions of the sidewalks located on Oak Street shall be built to Town of Needham Specifications.
- 3.22 In constructing and operating the proposed building on the locus pursuant to this Special Permit, due diligence be exercised and reasonable efforts be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.23 Excavation material and debris, other than rock used for walls and ornamental purposes and fill suitable for placement elsewhere on the site, shall be removed from the site.
- 3.24 All construction staging shall be on-site. No construction parking shall be on public streets. Construction parking shall be all on site or a combination of on-site and off-site parking at locations in which the Petitioner can make suitable arrangements. Construction staging plans shall be included in the final construction documents prior to the filing of a Building Permit and shall be subject to the review and approval of the Building Inspector.
- 3.25 The following interim safeguards shall be implemented during construction:
 - a. The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
 - b. The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site, which require excavation or otherwise pose a danger to public safety.
 - c. The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the

Department of Public Works, the Building Inspector and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Oak Street.

d. The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Oak Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.

3.26 No building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:

a. The final plans shall be in conformity with those approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.

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

c. The Petitioner shall have prepared and filed with the Board and the Norfolk County Registry of Deeds a plan which shows assessor's Plan 47, Parcels 81 and 82 merged, using customary surveyor's notation.

d. The Petitioner shall have submitted a letter to the DPW identifying the measures selected and dates by which the NPDES requirements outlined in Section 3.15 of this decision will be completed.

e. The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.

f. The Design Review Board shall have reviewed and approved the Plan.

3.27 No building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:

a. An as-built plan, supplied by the engineer of record certifying that the on-site and off-site project improvements were built according to the approved documents, has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site and off-site, in their true relationship to the lot lines. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor.

b. There shall be filed with the Building Inspector and Board a statement by the Department of Public Works certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalks and curbing improvements on-site and off-site, have been constructed to the

standards of the Town of Needham Department of Public Works and in accordance with the approved Plan.

c. There shall be filed with the Board and Building Inspector a Final Construction Control Document signed by a registered architect upon completion of construction.

d. There shall be filed with the Board and Building Inspector an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations. Said plan shall be prepared by the landscape architect of record and shall include a certification that such improvements were completed according to the approved documents.

e. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board surety in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.

- 3.28 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commissions or other agencies, including, but not limited to, the Board of Selectmen, Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.29 The building or structure authorized for construction by this permit shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Inspector.
- 3.30 The Petitioner, by accepting this permit decision, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, that this information is true and valid to the best of the Petitioner's knowledge.
- 3.31 The Petitioner shall implement the following maintenance plan:
- a. Parking lot sweeping - sweep twice per year; once in spring after snowmelt, and early fall.
 - b. Catch basin cleaning - inspect basins twice per year; in late spring and fall. Clean basins in spring.
 - c. Oil/grit separators - inspect bi-monthly and clean four times per year of all oil and grit.
- 3.32 If the Petitioner records this Amendment at the Norfolk County Registry of Deeds, this Amendment shall become the operative decision and plan set under this First Amendment and Restated Major Site Plan Special Permit and this First Amendment shall supersede the Original Decision dated March 29, 2016.
- 3.33 Violation of any of the conditions of this decision shall be grounds for revocation of any building permit or certificate of occupancy granted hereunder as follows: In the case of

violation of any conditions of this decision, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Inspector to revoke any building permit or certificate of occupancy granted hereunder. This provision is not intended to limit or curtail the Town's other remedies to enforce compliance with the conditions of this decision including, without limitation, by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this decision if the Town prevails in such enforcement action.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this permit is limited as follows:
- 4.1 This permit applies only to the site and off-site improvements, which are the subject of this petition. All construction to be conducted on-site and off-site shall be conducted in accordance with the terms of this permit and shall be limited to the improvements on the Plan, as modified by this decision.
- 4.2 There shall be no further development of this site without further site plan approval as required under Section 7.4 of the By-Law. The Board, in accordance with M.G.L., Ch. 40A, S.9 and said Section 7.4, hereby retains jurisdiction to (after hearing) modify and/or amend the conditions to, or otherwise modify, amend or supplement, this decision and to take other action necessary to determine and ensure compliance with the decision.
- 4.3 This decision applies only to the requested Special Permits and Site Plan Review. Other permits or approvals required by the By-Law, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 4.4 The conditions contained within this decision are limited to this specific application and are made without prejudice for any further modification or amendment.
- 4.5 No approval of any indicated signs or advertising devices is implied by this decision.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the By-Law.
- 4.7 This Site Plan Special Permit shall lapse on November 1, 2018, if substantial use thereof has not sooner commenced, except for good cause. Any requests for an extension of the time limits set forth herein must be in writing to the Board at least 30 days prior to November 1, 2018. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided except for good cause.
- 4.8 This decision shall be recorded in the Norfolk District Registry of Deeds and shall not become effective until the Petitioner has delivered a certified copy of the document to the Board. In accordance with G.L. Chapter 40A, Section 11, this Major Site Plan Special Permit shall not take effect until a copy of this decision bearing the certification of the

Town Clerk that twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk and either that no appeal has been filed or the appeal has been filed within such time is recorded in the Norfolk District Registry of Deeds and is indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at the risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

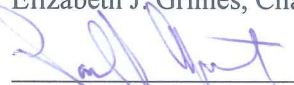
The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown of the Plan, as modified by this decision,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

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

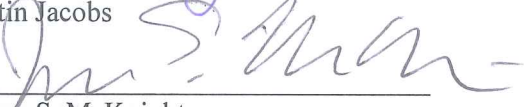
Witness our hands this 1st day of November, 2016

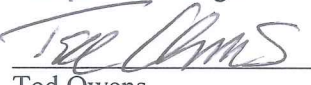
NEEDHAM PLANNING BOARD


Elizabeth J. Grimes, Chairman


Paul S. Alpert


Martin Jacobs


Jeanne S. McKnight

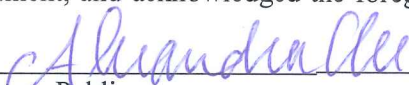

Ted Owens

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

Nov. 1 2016

On this 1 day of November, 2016, before me, the undersigned notary public, personally appeared Elizabeth Grimes, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was personally known to me, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.


Notary Public

My Commission Expires: March 18, 2022

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by 57 Dedham Avenue LLC, 471 Hunnewell Street, Needham, MA, for Property located at 15-17 Oak Street, Needham, Massachusetts, has passed,

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

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

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

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board
George Giunta, Jr.

July 7, 2020

The Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Vice-Chairman, on Tuesday, July 7, 2020, at 7:15 p.m. with Messrs. Jacobs, Owens and Block and Ms. McKnight, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of people expected to be on the agenda. He noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. He reviewed the rules of conduct for zoom meetings. This meeting will allow public comment. He noted if any votes are taken at the meeting the vote will be conducted by roll call.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to automatically continue the meeting to 7/21/20 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

Vote to refer and Schedule Public Hearing: 100 West Street, Redevelop and zoning change of the property to enable an 83 unit Assisted Living and Alzheimer's/Memory Care facility and 71 Independent Living Apartments.

Mr. Alpert noted there are 2 Zoning By-Laws. Article 1 is the creation of the Avery Square Overlay District and Article 2 is a map change. A motion was made to refer the 2 Articles to the Select ~~B~~board for referral back to the Planning Board for public hearings. Mr. Jacobs noted a typo in the first paragraph, 4th line from the bottom, the word "southerly." Ms. McKnight stated she listened to the Select ~~B~~board hearing and one issue that was raised, particularly by Dan Matthews, was train noise and his insistence ~~that~~ the developer and then the lessor make sure all prospective tenants are aware of the train noise. ~~She noted that~~ Mr. Bloom ~~had~~ mentioned ~~at a prior Planning Board meeting that~~ his company owns many developments and one is at a railroad crossing in Melrose and it was found the noise was not all that hard to live with. ~~He~~ ~~She further noted, however, that~~ ~~noted~~ Melrose established a quiet zone so the trains do not blow their horns, ~~whereas Needham has no quiet zone~~. She wanted the ~~proponent's~~ team to be aware of this.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to refer the 2 Articles to the Select ~~B~~board for referral back to the Planning Board for public hearings.

Public Hearing:

7:15 p.m. – Amendment to Major Project Site Plan Review No. 2008-08: V.S.A., LLC, 180 Country Way, Needham, Massachusetts, Petitioner (Property located at 225 Highland Avenue, Needham, MA).

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

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

George Giunta Jr., representative for the applicant, noted this is an existing building at the corner of Highland Avenue and Wexford Street. He gave the background of the building. It is a 2 story building with the top floor occupied by Gymboree. The first floor has Snippets and U Break I Fix. The 3rd space was Huntington Learning Center and is currently vacant. The Learning Tree Preschool is similar to Huntington but not the same. It was established in 1997, is fully licensed and open in West Roxbury. The space is on the left side of the first floor and is 11,009 square feet. There are 2 programs – one for toddlers 15 months to 2.8 years of age and the preschool is

for 2.9 years of age to 6 years. There will be 9 toddlers and 10 preschoolers. The original request referenced 13 toddlers not 9.

Mr. Giunta Jr. noted the staff has been reduced from 4 plus 1 and is now 3 plus 1. The hours are 7:30 a.m. to 5:30 p.m. with drop off being 7:30 a.m. to 9:00 a.m. and pick up between 3:00 p.m. and 5:30 p.m. There is a proposed outdoor play area. A new fence will be connected from the building to the existing fence at both ends to create an outdoor play area. The indoors is predominantly open space with restrooms and office space for meetings. There is a common hallway in back with common bathrooms. There will be 2 sections with 4 foot partitions for the toddler and preschool areas. He noted the use falls under the G.L.C. 40A Dover Amendment, Section 3. It is exempted under Section 3.2.5.1A of the Needham Zoning By-Laws. There are no material changes to the building, parking or exterior. The only change is the addition of the fence and play area. There is no set parking designation for this use.

Mr. Giunta Jr. stated he would like the Planning Board to designate a childcare standard for parking spaces. If the enrollment is known and is under 40 students there would need to be a total of 8 spaces. That is the same as the Huntington Learning Center. There is already an existing waiver for Huntington so no new waiver is needed. He noted drop offs are done before Gymboree opens and pick-ups are done after Gymboree closes so there are no conflicts. He stated Huntington was there for several years and there were no issues. There are 22 spaces on site and 5 spaces available down the street. He feels there will be no negative onus or impact. Mr. Alpert noted he is the General Counsel for Temple Beth Shalom, which has a children's center. He does not see a conflict and has spoken with the Temple who do not see this as a competitor. Mr. Giunta Jr. stated he has no objection to Mr. Alpert participating.

Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon, noting he was ok with the changes; an email from Town Engineer Anthony DelGaizo, with no comments or objections; an email from Building Inspector David Roche with no issues; an email from Tara Gurge, of the Public Health Department, with comments regarding food and COVID 19 protocols; and an email from Police Chief John Schlittler with comments regarding parking, walkers and the congested area. Chief Schlittler noted if the lot is full there is only one way in and out, which may cause an issue. He is concerned with traffic at the intersection of Wexford and Highland, which at one time was the most dangerous intersection in town. He is concerned with safety getting in and out of the area and he hopes there will be designated parking in the lot adjacent to the building for parents.

Mr. Block echoed the police comments regarding safety. He would like Mr. Giunta Jr. to talk to the timing of the others stores with Snippets and U Break I Fix. He noted he takes his son to Snippets after school between 4:00 p.m. and 6:00 p.m. He asked whose property the white fence is on that is between the buildings. Mr. Giunta Jr. noted the fence is on this property and the new fence will be connected to it. Mr. Block asked if the tree will be removed to put the fence up. Mr. Giunta Jr. feels it will be fit in around the fence. Maura Dinnegan, prospective tenant, stated there are no plans for play structures but toys and maybe a play house. There will be no climbing equipment. Mr. Jacobs asked how the play area will be accessed. Mr. Giunta Jr. stated the door on the end of the building near the play area. He noted Snippets hours are 10:00 a.m. to 6:00 p.m. and U Break I Fix's hours are 10:00 a.m. to 5:00 p.m. He feels there will be no conflict for the morning drop off. Pick up time is spread out so he does not feel there is a conflict there either. He noted Huntington had no conflicts. The existing conditions are not really changing except drop off is earlier. He does not feel there are any substantial problems.

Mr. Jacobs asked if there would be any problem with a condition that the off-site available spaces would be used for staff. Mr. Giunta Jr. stated that is how the off-site spaces are used now. John Giannacopoulos, owner of the building, noted all tenants are required to park off site or the lease can be broken. He has invested a lot of money in traffic Improvements. It is a busy area but much improved. He noted he has not had a problem in all his years in Needham. Mr. Jacobs asked if the 5 off-site spots are deeded. Mr. Giannacopoulos stated he owns the whole parking lot with dedicated spaces for tenants.

Ms. McKnight stated she is concerned with off-site spaces. She would like a condition that all employees should park off-site and feels the owner has agreed to that. She sees the traffic as being different from the Huntington Learning Center. There are more at peak hour drop off. She is concerned with safety at that intersection.

Improvements to Highland Avenue are to be undertaken soon by the state ~~work~~. She asked if there will there be a light at the corner of Highland and Wexford and was informed no. She asked if there would be any improvements. Ms. Newman noted there will be a left turn lane into the gas station, a left turn lane onto Wexford Street and raised bike lanes. Construction was supposed to start in September but has been delayed. Mr. Owens had no comments or questions. Mr. Jacobs noted the 11,009 square feet should be 1,109 square feet. Mr. Giunta Jr. agreed.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Owens, it was by a roll call vote of the five members present unanimously:

VOTED: to close the hearing.

Mr. Giunta Jr. stated he made some edits to the draft decision with Ms. Newman. He did not change the use section. This was written as a Special Permit. He feels it is an exempt use. Mr. Alpert agrees. He feels the decision should be changed to reflect that. He noted the discussion will be after the next hearing on this agenda.

7:30 p.m. – Major Project Site Plan Review No. 2020-02: Corben Properties, LLC, 22 Comeau Street, Wellesley, MA 02481, Petitioner (Property located at 330 Reservoir Street, Needham, MA).

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

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

Shuang Meng, owner of Star Fencing Academy, introduced with comments on the art of fencing. She noted it is an Olympic sport with 2 fencers at a time. She and her husband come from China and moved here 10 years ago. They have been training fencers since then. She gave a background on herself and her students. She noted there is a 44 foot long stage and the fencers move back and forth. She explained the different levels of classes. The hours will be 3:00 p.m. to 9:00 p.m. There will be private lessons, beginner classes, competitive classes and high rank classes. She noted there are 8 parking spaces and a lot of street parking. Scott Ravelson, owner of the building, stated he is excited about the fencing school. It is the perfect use and complements the neighborhood. He is This use will ~~replacing~~ a retail auto parts store with higher parking demand. He noted the lease does not allow parking until after 2:30 and restricts the number of students allowed between 3:00 p.m. and 4:30 p.m. There is very minor construction being done.

Ms. McKnight asked for the parking to be clarified. This use would need 15 spaces and only 8 are provided on site. Mr. Ravelson stated he has 102 parking spaces, mostly in the rear of the building. He has given 8 spaces in front of the building and along the ~~side~~ side that have been attached to the lease. He felt parking on the street was better than the safety issue of parents walking down the alley from the back of the lot. He noted this is a private street. Ms. McKnight asked if this was a for profit business and was informed it was. Mr. Jacobs asked if all students are under 20 years old. Ms. Meng noted the ages are between 6 and 18, but they also have some college students. She also has adult classes with the oldest being 70 years old.

Mr. Alpert noted the following correspondence for the record: an email from Fire Chief Dennis Condon with no issues; an email from Police Chief John Schlittler with no issues; an email from Town Engineer Anthony DelGaizo with no comments or objections; an email from Building Inspector David Roche with no issues and an email from Tara Gurge, of the Public Health Department, with comments regarding retail food and state COVID19 protocols.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the five members present unanimously:

VOTED: to close the hearing.

Discussion regarding 225 Highland Avenue.

Mr. Alpert noted on the draft decision on page 1, the chart needs to be changed to his name as the Acting Chair of the meeting and in Section 1.10, language needs to be added regarding off-site parking for staff. He agreed with

Mr. Giunta Jr. that this is an as-of-right use and not a special permit use. All other members agreed. Mr. Alpert noted in Section 3.4, the Board retains jurisdiction regarding the number of kids; in Section 3.7, “Allston” is misspelled and in Section 3.12, add “Department of Early Education and Care.” ~~He noted this is not legally a transfer.~~ He noted if the ownership interests of the LLC, Inc. are transferred such that the current owner does not own more than 50% of the voting of the stock, it is considered a transfer and is in violation of the permit.

Mr. Jacobs noted the decision needs to be changed to reflect the number of students represented tonight. Ms. Newman stated she needs to have plan modifications that call out how the play area is on site. Mr. Alpert stated the Board needs a revised draft to review. The vote will be deferred until the 7/21 meeting. Ms. McKnight noted in Section 1.7, 2nd paragraph, top of page 4, she would like it to say where the 5 off-site spaces are; in Section 1.9, the traffic pattern is changing – this is a change of use and not a change of the building. This should be clarified. In Section 1.10, it seems the waiver of parking has been resolved by lowering the number of students and staff and off-site parking should be in the conditions and limitations. Mr. Giunta Jr. stated the off-site parking is at 43 Wexford Street. Ms. Newman will revise the draft to reflect the discussion tonight.

Discussion regarding 330 Reservoir Street.

Mr. Alpert noted the decision needs to be changed to reflect he was Acting Chair of the meeting. Ms. McKnight commented on the parking analysis. There are 63 spaces for the whole building with 102 available. This tenant is limited by the lease to 8 spaces and 5 on the private way. She wants to make sure they can use any parking. Mr. Ravelson stated there is always an issue on Reservoir Street in the day time. He has specifics in the lease. Mr. Alpert commented they need to know there are 15 spaces available for this tenant on this property. The Board does not need to know where. Ms. Newman noted there is a change in class times from 3:00 p.m. to 4:30 p.m. not 3:00 p.m. to 5:00 p.m. She will make the change in the decision.

Upon a motion made by Mr. Jacobs, and seconded by Ms. McKnight, it was by a roll call 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; (2) the requested Special Permit under Section 3.2.1 for a private school, nursery or kindergarten not otherwise classified under Section 3.2.5.1 in the Industrial Zoning District; and (3) the requested Special Permit under Section 3.2.1 for more than one non-residential use on a lot, subject to and with the benefit of the ~~following~~ Plan modification, conditions and limitations to be set forth in the draft decision.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Block, it was by a roll call vote of the five members present unanimously:

VOTED: to adopt the draft decision with the changes discussed tonight.

Board of Appeals – July 18, 2020

J. Derenzo Properties, LLC – 123 Pickering Street.

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

VOTED: “No comment.”

Catalyst Development, LLC – 249 Garden Street.

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

VOTED: “No comment.”

Needham Pool and Racquet Club, Inc – 1545 Central Avenue.

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

VOTED: "No comment."

Minutes

Upon a motion made by Ms. McKnight, and seconded by Mr. Jacobs, it was by a roll call vote of four of the five members present (Mr. Block abstained):

VOTED: to accept the minutes of 4/15/20 and 5/5/20 as written.

Correspondence

There was no correspondence.

Report from Planning Director and Board members.

Ms. Newman noted there was a meeting this morning of the Highway Commercial 1 working group. The primary issue is traffic and what next steps should look like. There was some new state data collected prior to COVID after Add a Lane went on line. The town took some counts at Gould and Central prior to COVID. The group felt it made sense to go back to the traffic consultant to see how it might look with this new data, how they are doing traffic studies now in this environment and come up with a new scope of services that would be reviewed by the group at the next meeting. Mr. Block noted there was a brief conversation regarding residential at this site but it was decided to keep this as office with some retail. The retail component was not discussed but the consensus is office and retail. Ms. Newman noted both office and retail will be modeled. Mr. Jacobs noted there was no consensus in the meeting whether to include residential or not. Ms. Newman stated this is just to create the framework for what will be modeled.

Ms. McKnight noted she is a proponent of residential, ~~but,~~ ~~F~~ the problem with this site is it is not transit oriented. She is not enthusiastic about residential for this parcel. Mr. Owens agreed. There would be a benefit from a residential development and he knows the supply and demand issue. The tax rate on commercial is greater and this land is much more valuable as commercial. He feels the town does not need any more residential along the highway. The idea of studying for residential use is just a delaying tactic in his mind. Mr. Jacobs noted it was expressed there was not a clear vision for this site. People thought it made sense to model for residential as well. He feels there may be some opposition to just retail and office at Town Meeting. The Board should be able to say it was modeled all ways and have decided to stick with office and retail. He feels the consensus of the group would agree with that.

Mr. Block has spoken with a number of Real Estate agents. The 128 Commercial Real Estate remains high and strong. He does not feel this location would be good for residential. He feels the Board should be in unison with their position. Mr. Alpert noted the Board did discuss residential but came to the conclusion it should not be in and only commercial should be considered. However, Town Meeting wants to know why residential was not considered. The Board needs to be able to answer people why there should not be residential. The Board needs to have the facts to present the counterargument. Mr. Owens stated he is willing to model residential and consider it so it can be said it was looked at. A discussion ensued.

Mr. Jacobs asked if there was a sense of how long it would take for a study to be performed. Ms. Newman felt not too long. Existing traffic data is being used. The question is if there is sufficient data to go forward. Mr. Owens stated he is willing to consider all options but in the end the Board needs to bring forward what the Board thinks is best for the town.

Mr. Alpert asked what happened to the proposal to put 200-250 apartments behind Staples. Ms. Newman stated the first deal fell apart and she hasn't heard anything lately. Ms. Newman noted the Council of Economic Advisors (CEA) is moving ahead with hiring the Economic Development Director within the month. She noted Town Meeting is set for 10/5. The zoning change hearing is set for ~~for~~ August because of the Town Meeting date. Mr. Block noted LCB Senior Living has reached out to him as the Chair of the CEA and President of the Needham

Heights Neighborhood Associations. ~~They~~ LCB wants to do a presentation for the Heights Association in September.

Mr. Alpert noted the Chair and Vice-Chair meeting ~~last~~ Friday. Regarding the Heather Lane subdivision, Ms. Newman mentioned the possibility that Mr. Piersiak may give a consideration of a Conservation ~~n~~ easement on a portion of the land that abuts the Charles River. He would not want the public to have access to the easement. Mr. Alpert noted he and Ms. McKnight think there should be some push back to see if they could get access. He reached out to the Chair of the Conservation Commission, Janet Bernardo, to see if they would agree with the Planning Board. She was ambivalent due to people walking on the vegetation along the river and destroying it. He feels a couple of members of the Planning Board and the Conservation Commission should approach Mr. Piersiak to allow for a site visit to see what is there. Then the Conservation Commission can make a decision if they want to approve or not.

Mr. Block asked if the ~~town~~ Town would have the responsibility to maintain the easement. Mr. Alpert noted the owner and whoever holds the easement would be responsible for maintenance in accordance with a written agreement between them. Mr. Owens is in favor of speaking with Mr. Piersiak. Mr. Block agreed. Mr. Alpert asked Ms. Newman to coordinate with Debbie Anderson to see how to get a site visit with Mr. Piersiak.

Upon a motion made by Mr. Jacobs, and seconded by Mr. Owens, it was by a roll call vote of the five members present unanimously:

VOTED: to adjourn the meeting at 10:01 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul S. Alpert, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

July 21, 2020

The Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, July 21, 2020, at 7:15 p.m. with Messrs. Jacobs, Alpert, and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of people expected to be on the agenda. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. This meeting will include 2 public hearings that will allow public comment. She noted if any votes are taken at the meeting the vote will be conducted by roll call.

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

VOTED: to automatically continue the meeting to 8/11/20 at 7:15 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

Request to Authorize Planning Director to authorize Phase 1 Occupancy Permit: Major Project Site Plan Special Permit No. 2018-03: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 88 and 66 Chestnut Street, 89 School Street, 43 Lincoln Street, Needham, Massachusetts), regarding Police & Fire Headquarters.

Ms. McKnight noted a memo to the Planning Director from Steven Popper, Director of BDDesign & Construction, requesting a temporary occupancy permit at 88 Chestnut Street. This is the newly constructed Phase 1 of the Public Safety Building. This will allow the Fire Department to move into the new building. Mr. Jacobs asked if there was an anticipation of any issues with this. Ms. Newman stated she anticipates getting an interim As-Built Site Plan, an interim As-Built landscape plan and certification on the architectural side. There will be inspections on Engineering's side.

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

VOTED: to authorize the Planning Director to authorize the issuance of a temporary Certificate of Occupancy for 88 Chestnut Street.

ANR Plan – Christ Church of Needham, Petitioner (Property located at 1132 Highland Avenue, Needham, MA).

Ms. McKnight noted this is an endorsement of an ANR plan for 61 and 65 Rosemary Street and 1132 Highland Avenue. Evans Huber, Attorney, noted this is 3 adjacent properties. He stated 61 Rosemary Street is vacant but undersized. 65 Rosemary Street has a structure and is next to the church lot. The applicant wants to create a buildable lot at 61 Rosemary Street by demolishing the house on 65 Rosemary Street, taking that land and adding some to 61 Rosemary Street to create a conforming lot. The remaining land will be added to the 1132 Highland Avenue lot. This will eliminate or reduce nonconformities. Ms. McKnight sought clarification that no new nonconformities will be created by this plan. Mr. Huber stated that is correct.

Mr. Block noted on the plan of land, in the signature bloc for the Clerk, it says Newton Planning Board. It should be adjusted for Needham. Mr. Huber stated there were several versions of this plan. He had hoped the final version was delivered but this may not be the last version. Mr. Block asked who owns 61 Rosemary Street and was informed the church. Mr. Block asked if the church intends to sell it. Phil Trussell, representative of Christ Church of Needham, stated the intent is to sell the lot. Mr. Jacobs reviewed the changes made to the prior versions. Middlesex County has been changed to Norfolk County, Rosemary spelling was corrected, Newton was changed to Needham

and the zoning ~~changes have~~table has been updated also. Mr. Huber reviewed the changes to the zoning table~~changes that were made.~~

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

VOTED: to endorse the plan subdivision approval not required.

Decision: Amendment to Major Project Site Plan Review No. 2008-0: V.S.A., LLC. 180 Country Way, Needham, Massachusetts, Petitioner (Property located at 225 Highland Avenue, Needham, MA).

Ms. McKnight noted the request is to allow occupancy of a portion of the building by a preschool. The latest revised version of the draft decision was sent this afternoon. Mr. Alpert noted the decision needs to be revised to reflect only 4 members present.

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

VOTED: to approve the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law and Section 4.2 of Major Project Special Permit No. 2008-08, dated November 12, 2008, amended August 11, 2009, January 3, 2011, August 9, 2011 and June 12, 2012; the requested Special Permit under Section 5.1.1.5 of the By-Law to further waive strict adherence with the requirements of Section 5.1.2 (Required Parking), subject to and with the benefit of the following Plan modifications, conditions and limitations as listed in the Decision.

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

VOTED: to accept the decision as presented in the packet that was posted with the modifications made and presented this afternoon.

Public Hearing:

7:30 p.m. – 390 Grove Street Definitive Subdivision Amendment: Elisabeth Schmidt-Schueber, 390 Grove Street, Needham, MA, Petitioner (Property located at 390 Grove Street, Needham, MA). Please note this is a re-noticed hearing that began on February 4, 2020.

Ms. McKnight noted this is a definitive subdivision and not an amendment.

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

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

George Giunta Jr., representative for the applicant, noted February 18 was the last time he was in front of the Board due to COVID. He gave a quick refresh of the basics. This is a 5 acre parcel. There will be one new house. The applicant wants to do a subdivision and put in a new road. He feels this is as of right. There is a reduced road width of 18 feet and the circle at the end has been modified. At the last hearing, assorted issues were discussed and the plans were revised and submitted in early March. The Filtermitt along the north and south property line was moved to within one foot of the property line; the roadway pavement within the width of the right of way was shifted 2 feet to the south so the abutter to the north has a 13 foot buffer between the pavement and the property line; trees to be protected and to be removed have been identified on the plan and landscaping has been added. He noted the circle could not be pivoted without losing trees.

Ms. McKnight noted the following correspondence for the record: an email, dated 7/16/20, from Fire Chief Dennis Condon noting no issues; an email, dated 7/16/20, from Town Engineer Anthony DelGaizo with comments regarding the culvert pipe. She asked Mr. Giunta Jr. if he has seen the email from engineering. Mr. Giunta Jr. noted he has seen that email and had forwarded it to their engineer. The engineer has revised the plans already. The

revised plans have not yet been submitted. Ms. McKnight noted the following additional correspondence for the record: letters in petition form and in opposition from: Jean McGlynn of 359 Grove Street; Roberta Swenson of 447 Grove Street; James Frates of 471 and 465 Grove Street; Fred and Tamara Ledley of 433 Grove Street; Sandy and HP Geddes of 461 Grove Street; James Curley of 380 Grove Street; Mark Warren and Victoria Vannederman of 390 Grove Street; Wendy Lane of 348 Grove Street; Robert and Kalliope Badavas of 402 Grove Street and Jane O'Brien of 430 Grove Street; an email from Robert Stetson, dated 7/21/20; a letter from Attorney Gary Lilienthal, dated 7/16/20, requesting to speak at the meeting; and a letter, dated 7/14/20, from Civil Engineers Karlis Skulte and Amy Knight.

Gary Lilienthal, Attorney representing James Curley and 2 others, stated his clients are opposed to this application. The plans were sent out to the Board this evening. He noted Mr. Skulte will go through the engineering review. Karlis Skulte, Engineer, showed a mark up of the approved as of right plan. He noted there were no meets and bounds on the plan so he recreated them. The plan does not meet the lot width requirements at Grove Street. There are a number of significant trees along the property line shared with Mr. Curley. He needs to look at if they will survive with construction. The test pits were dug and a number of assumptions were made in order to design the drainage system. He is not confident they are being consistent and uniform along the site with soil conditions. The turning radius is only 8 feet rather than 20 feet. There should be a larger radius included in the turning movement exhibit. The parkway on the plan is 13 feet wide but 11 feet elsewhere so it is inconsistent. He is not clear what is being proposed. ~~He is also not sure what the trash label is for.~~ The infiltration system appears not to meet the minimum requirements and he would like it looked at. The level area of 50 feet should not be more than a 1% grade for safety. A waiver is being requested. That is a fairly steep grade at 3%. The drainage appears to drain along, and not into, the catch basins. Based on the swale proposed, a substantial portion of stormwater will be going into the roadway. He also noted the project is in a protected area.

Mr. Lilienthal stated the plans should fail as an as-of-right subdivision as well as being entitled to waivers. Waivers would not benefit the community in any form and would only benefit the applicant. There is an existing single family house in the neighborhood. He noted this is an historic neighborhood. There are 11 people who own over 30 acres in the area that is close to this property. The Board should look to benefit the public when granting waivers. He does not feel this is a benefit to the public. The lot on an as-of-right basis will be deficient in footage by over 1,000 square feet. The plans are deficient in terms of measurements and the land is in the Needham Aquifer Overlay District as well as Massachusetts Storm Water Control areas. Mr. Lilienthal feels the drainage was improperly and inadequately calculated and there are sidewalk and parkway issues. He noted there are many mature trees. Parcel A seems to be used for an infiltration system and chambers but the applicant would like the Board to think Parcel A is not part of the subdivision. Parcel A is only there to meet the width requirement. He requests the Board close the hearing and reject the plan.

Mr. Alpert asked if the applicant has presented this as an as of right subdivision. There are 2 elements to that. Lot 1 is less than one acre. He noted there is plenty of land on Lot 1 that could be added to Lot 2. He is concerned with the 120 foot frontage requirement, which is not required for the entire lot. What is the reason for having Lot A? It is clear from the plans because of the radius of the roadway on the south side if the lot has frontage on Grove Street it is less than 120 feet. He would like to go back to the Fire and Police Chiefs and see if they are still approving this from a safety perspective. He would also like to go back to the Town Engineer on the infiltration and storm water systems to look at the objections being raised and see what he thinks. He wants more information.

Mr. Jacobs noted there were a lot of comments that this was a historic neighborhood. He asked how this is a historic neighborhood and how would the Board deal with it if it is. He asked if it makes a difference. Mr. Lilienthal stated it is not designated as an historic district. It is the character and maturity of the neighborhood and the feeling of Needham values. There has been an historic feeling over the years and the neighbors want to keep that. This proposal will affect the character of the neighborhood.

~~Ms. McKnight~~ Ms. McKnight stated the police comments were to the original plans. Changes have been made to the plans in response to discussions. The email from Police Chief Schlittler says the police have no issues.

Mr. Block asked when is it appropriate to issue waivers and at what point are we waiving away our subdivision regulations. The Board has to look at the adverse impact that subdivisions or waivers would have on abutters. He asked if the engineering issues raised are cured, is there an adverse economic impact to the abutters and, if so, how to quantify that. He noted the second house is far from Grove Street and really only a part of the driveway would be seen. He wants to be mindful of the actual characteristics of this street, the impact on the neighborhood, any precedent the Board may be setting and if any harm is actually being raised. He asked if there is any actual economic or environmental harm to the abutters.

Mr. Giunta Jr. noted Grove Street is rural with substantial lots. Large lots define the area. There is no impact on zoning. The Board needs to look at what zoning provides and that is one acre lots in this area. A lot of the properties are larger but the zoning is one acre. Parcel A was created to create a separation from Grove Street so Lot A would not be a corner lot. He noted ~~this Lot A~~ would be owned by a trust of the homeowners and would be a separate lot. Lot 1 is not a corner lot and the 120 feet corner frontage rule does not apply. It meets 120 feet on the roadway. He noted the plan does not have an area, which is their oversight. He will come back with revised as-of-right plans. All waivers are predicated on an as-of-right plan. He feels they have an as-of-right plan.

Ms. McKnight stated an as-of-right plan would require 2 sidewalks. Trees would be disturbed for two sidewalks so this is not an as-of-right. She asked if the as-of-right plan made changes to the turning radius at the corner and apron grade to comply. David Kelley, Project Engineer, noted on the as-of-right plan the pavement radius on the south and north are different. Ms. McKnight noted the north, as shown on the waiver plan, shows different and complying turning radius. Mr. Giunta Jr. will look at this. Mr. Lilienthal noted waivers are given to enhance the projects and basically benefit all ~~but~~ -T this is a benefit to the developer only. Mr. Block asked what harm may come to abutters if the engineering issues were cured and this was approved. Mr. Lilienthal stated harm is subjective and he cannot really answer that. If an as-of-right plan was compliant with all rules and regulations that is one thing. This is a detour of the rules and regulations.

Ms. McKnight stated this hearing will be continued. She wants more information on the drainage issues and for the Town Engineer to look at the storm water. Mr. Alpert also wants the police and fire to examine the entrance of the roadway onto Grove Street. He wants them to take a second look. Mr. Giunta Jr. noted this would require an extension to the end of September.

Upon a motion made by Mr. Block, and seconded by Mr. Jacobs, it was by a roll call vote of the four members present unanimously:

VOTED: to continue the hearing to 8/11/20 at 8:00 p.m.

8:00 p.m. – Heather Lane Definitive Subdivision: William John Piersiak, William John Piersiak, Trustee of the 768B Chestnut Street Realty Trust, Evelyn Soule Maloomian, and Koby Kemple, Manager of the 766 Chestnut LLC, Petitioners (Property located at 764, 766, 768-768A, and 768B Chestnut Street, Needham, Norfolk County, Massachusetts). Please note: this hearing is continued from the June 16, 2020 Planning Board meeting.

Heather Lane Extension Definitive Subdivision and Residential Compound: William John Piersiak, Petitioner (Property located at 768A-768B Chestnut Street, Needham, Norfolk County, Massachusetts). Please note: this hearing is continued from the June 16, 2020 Planning Board meeting.

Robert Smart, representative for the applicant, noted this is 3 applications with a total of 10 lots with 5 existing residences. He noted there are 3 letters of support. There was a site meeting on 6/22/20 with the abutters to discuss the road layout and walk the property with the Conservation Commission. Mr. Piersiak has purchased Ms. Maloomian's property so he cleaned up the documents. He has filed revised Homeowner documents and plans. They are requesting the same conservation restrictions as Petrini's Riverbend Lane subdivision project. That does not give the right to enter the premises except for the grantee, which is the town. The Conservation Commission asked they track the same language as in the Petrini document. He described the property and abutting properties and noted the sewer easement. There is no trail across 770 Chestnut Street and there is no place for the public to

park. He noted a walking trail would dead end and be of no use to the public. He has had additional communication with abutters over the last few days and they were in support of the application.

David Kelly, of Kelly Engineering Group LLC, showed the changes made on the plan. The drainage easement has been defined on the plan; he has provided an updated waiver list, which he reviewed; the right of way width is going from 50 feet waived to 40 feet and is currently 15 feet, the pavement width is going from 24 feet waived to 20 feet and is 12 feet now; the street slopes at the intersection, the radii at the intersection; there is no curbing now and they propose bituminous and there are no sidewalks proposed as there are no sidewalks on Chestnut Street. There are minor changes to the residential compound; the 25 foot right of way has been changed from 20 feet, utilities in the road have been put in the right of way and some revisions to the hammerhead to allow for a fire hydrant in the right of way.

Mr. Alpert noted he had no questions or comments. Mr. Jacobs stated he went over the Homeowners Trust documents and will have some edits later. The Conservation Commission has requested a restriction and no public access. He is ok with their request and would not push for public access. Mr. Block agreed with Mr. Jacobs and had no other comments. Ms. McKnight noted she participated in the site visit. The strip along the river has no access and there is a steep slope along the river. She concurs with the Conservation Commissions restriction with no public access. Simeone Brunner, representative of 770 Chestnut Street LLC, stated they may be doing a project on their property and generally he is in support of this project. There are some concerns with the easement on Heather Lane. He would like the Board to note Heather Lane would be sufficient to support 2 additional accesses if they go forward with their project.

Mr. Alpert stated he has noticed an issue with the plan on sheet 4A of the Lotting Plan. By widening Heather Lane they are reducing the line along Chestnut Street on Lot 1 so it no longer has 150 feet of frontage on Chestnut Street. It looks like 60 feet are being taken away. There needs to be 150 feet in the By-Law. Mr. Smart stated Lot 1 is part of the subdivision and will have frontage on the new road. Ms. McKnight noted the following correspondence for the record; an email from Tara Gurge, of the Health Department, with comments on the Heather Lane Extension and noting the surety required. Mr. Smart stated he is not clear the surety is necessary when moving from one location to another. Ms. McKnight noted drainage may be changed on the lot and this surety will ensure it. William Piersiak, applicant, stated he has no issue with the requirement for surety.

Mr. Smart stated he will look at the lot width provision. A parcel could be created so there is no frontage on Chestnut Street. Ms. Newman noted the issue needs to be resolved. She still needs close out letters from Engineering, a final review of the drawings, a final letter from the Conservation Commission and the exact location of the easement. This can be continued for those 3 reasons and she can have the decision ready for the 8/11/20 meeting.

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

VOTED: to continue the hearing to 8/11/20 at 8:30 p.m. for the sole purpose of obtaining further information on the lot width issue for Lot 1, a letter from the Conservation Commission and final engineering review.

Minutes

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

VOTED: to accept the minutes of 5/20/20 and 6/2/20.

Correspondence

It was noted there is correspondence regarding an amendment to the Cogswell Building. Ms. Newman noted the Town may do a solar installation on the building. If they decide to go forward it will need to be an amendment.

Report from Planning Director and Board members.

Ms. Newman stated she is moving forward with the Highway Commercial 1 zoning. The proposal has been received from GPI on the traffic study and has been sent to the Town Manager. It will be going to the working group to see if it would be approved for a plan study. The Avery Square District rezoning hearing is scheduled for 8/11/20 at 7:30 p.m.

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

VOTED: to adjourn the meeting at 9:57 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice-Chairman and Clerk

From: [Lee Newman](#)
To: [Jeanne McKnight \(jeannemcknight@comcast.net\)](#); ["Paul S. Alpert"](#); ["Ted Owens"](#); [Adam Block](#); [mj@jacobs-thomas.com](#)
Cc: [Alexandra Clee](#)
Subject: 1433 Highland
Date: Tuesday, September 22, 2020 3:36:06 PM
Attachments: [Century Bank Drawings 1433 Highland Needham.pdf](#)
[Chapter 3.2.2.doc](#)

To All,

At our meeting tonight I want to discuss two pending projects under my report to the Board. I need your input as to how these two projects are to be permitted. I am sending each project description in an independent email.

The first is a new bank which is proposed at 1433 Highland Avenue in the Anton's cleaners building. It is going into the space that had a coin operated wash business. No building additions are proposed. They will be remodeling the facade. I was initially told by the Building Commissioner that it would have a walkup teller machine accessible from Highland Ave.

I viewed the walkup teller machine as an accessory use that was incidental to the principle bank use. Accessory uses are permitted in the CB district by special permit and had advised Dave Roche that we should process this permit accordingly. On another property Needham bank had proposed a drive through ATM which was processed under the noted provision in the CSB district. So whether a drive through ATM or a walkup ATM I was treating the exterior ATM use as an accessory use that was incidental to the principle bank use.

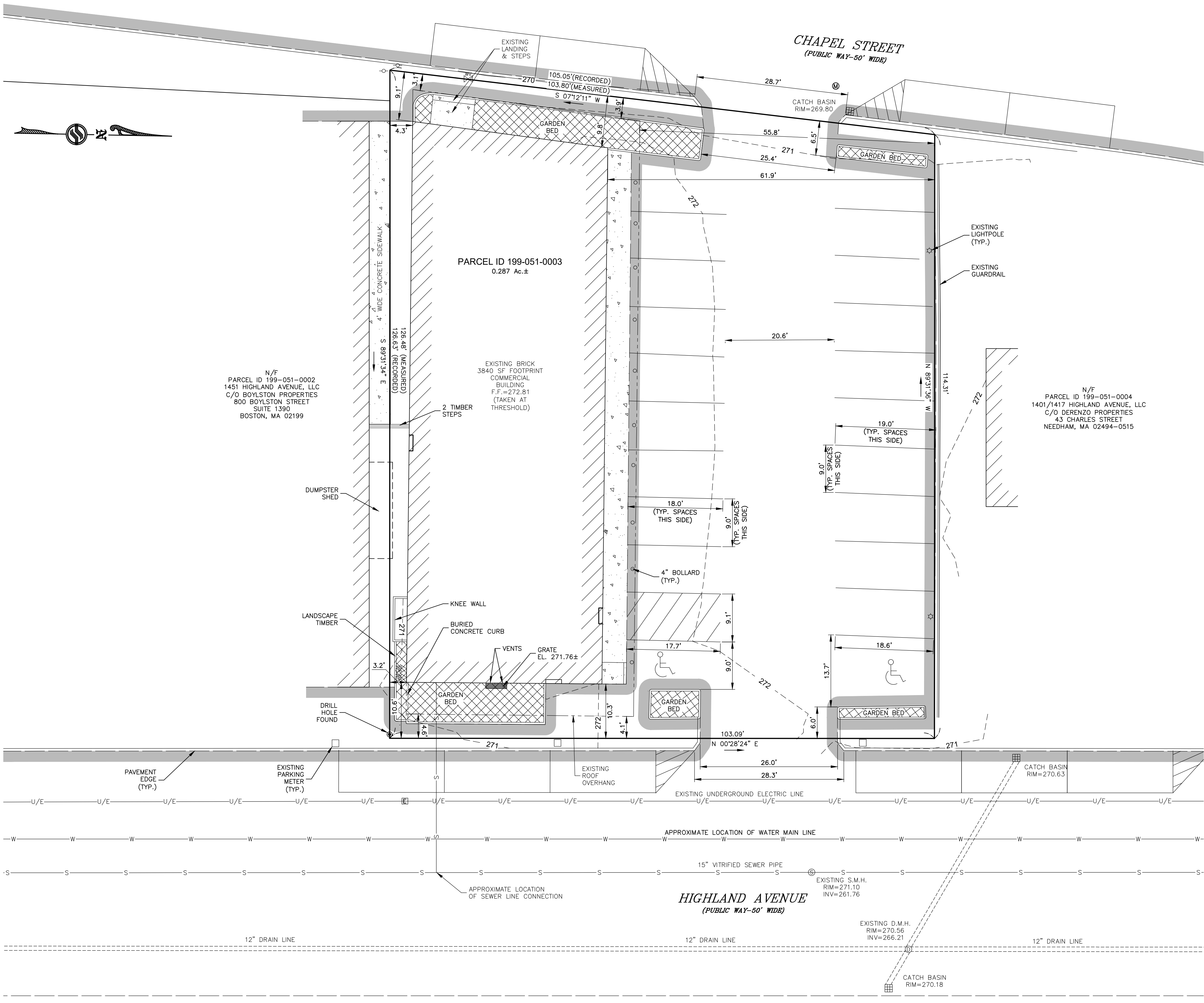
As a follow up to the bank question, I am now being told that bank window allows access to a human teller, with things constantly changing on the Covid-19 requirements the bank is going to put this window in so people don't have to go in the bank and have direct contact.

The question for the Board is whether you find this alternative use to be a function of the bank and not an accessory use, therefore allowed by right. I received input from both Jeanne and Paul who view it as part of the banks primary use. However, they asked that the question be discussed by the full Board.

The operative Section of the zoning by-law is Section 3.2.2 (see page 44) which is attached.

Thanks,

Lee



PLAN OF REFERENCE

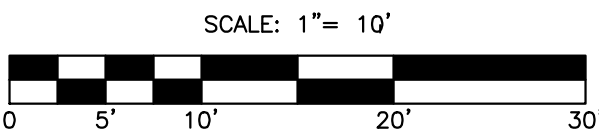
EXISTING CONDITIONS PLAN AT 1433 HIGHLAND AVENUE NEEDHAM MASSACHUSETTS, CERTIFIED BY CHRISTOPHER C. CHARLTON, RLS ON JULY 17, 2020

NOTES

- THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON AND ADJACENT TO NEEDHAM MA PARCEL ID 199-051-0-0003
- THE OWNER OF RECORD IS HIGHLAND 1433 REALTY TRUST, CHARLES A. ANTON TRUSTEE. SEE NORFOLK COUNTY DEED REFERENCE BOOK 9325 PAGE 484.
- THE SUBJECT LOT CONSISTS OF 12,410 SF (0.287 ACRES).
- THE SUBJECT LOT IS IN THE CENTER BUSINESS ZONING DISTRICT AND THE NEEDHAM CENTER OVERLAY DISTRICT B.
- THE LOT IS NOT WITHIN THE FLOOD PLAIN AS INTERPRETED FROM FEMA FLOOD MAP 25021C0036E, EFFECTIVE 7/17/2012.
- THIS PLAN DEPICTS CONDITIONS MEASURED BY FIELD SURVEY ON JUNE 27, 2020 BY SPRUHAN ENGINEERING, P.C.
- LOCATION OF UNDERGROUND UTILITIES SHOWN ON THIS PLAN TAKEN FROM TOWN OF NEEDHAM RECORDS.
- THE SUBJECT SITE IS SERVICED BY MUNICIPAL WATER AND SANITARY SEWER SERVICES.
- THE SITE FACILITY INCLUDES 21 PARKING SPACES.

LEGEND

	EXISTING
EDGE OF CONCRETE	
EDGE OF PAVEMENT	
BERM OR CURB	
PROPERTY LINE	
DRILL HOLE	
CONTOURS	
STORM SEWER	
UNDERGROUND ELECTRIC	
SANITARY SEWER	
WATER LINE	
GAS LINE	
CATCH BASIN	
DRAIN MANHOLE	
SEWER MANHOLE	
WATER GATE	
GAS METER	
LIGHT POLE	
ELECTRIC MANHOLE	
ACCESSIBLE PARKING	



1	Updated notes & parking lot dimensions. Added legend.	8/18/20
No.	Revision	Date
Drawn by: CRN		Checked by:

Existing Conditions
1433 Highland Ave
Needham, MA
Parcel ID: 199-051-0003



183 Rockingham Rd, Unit 3 East
Windham, NH 03087

(603) 647-8700
www.sfceing.com

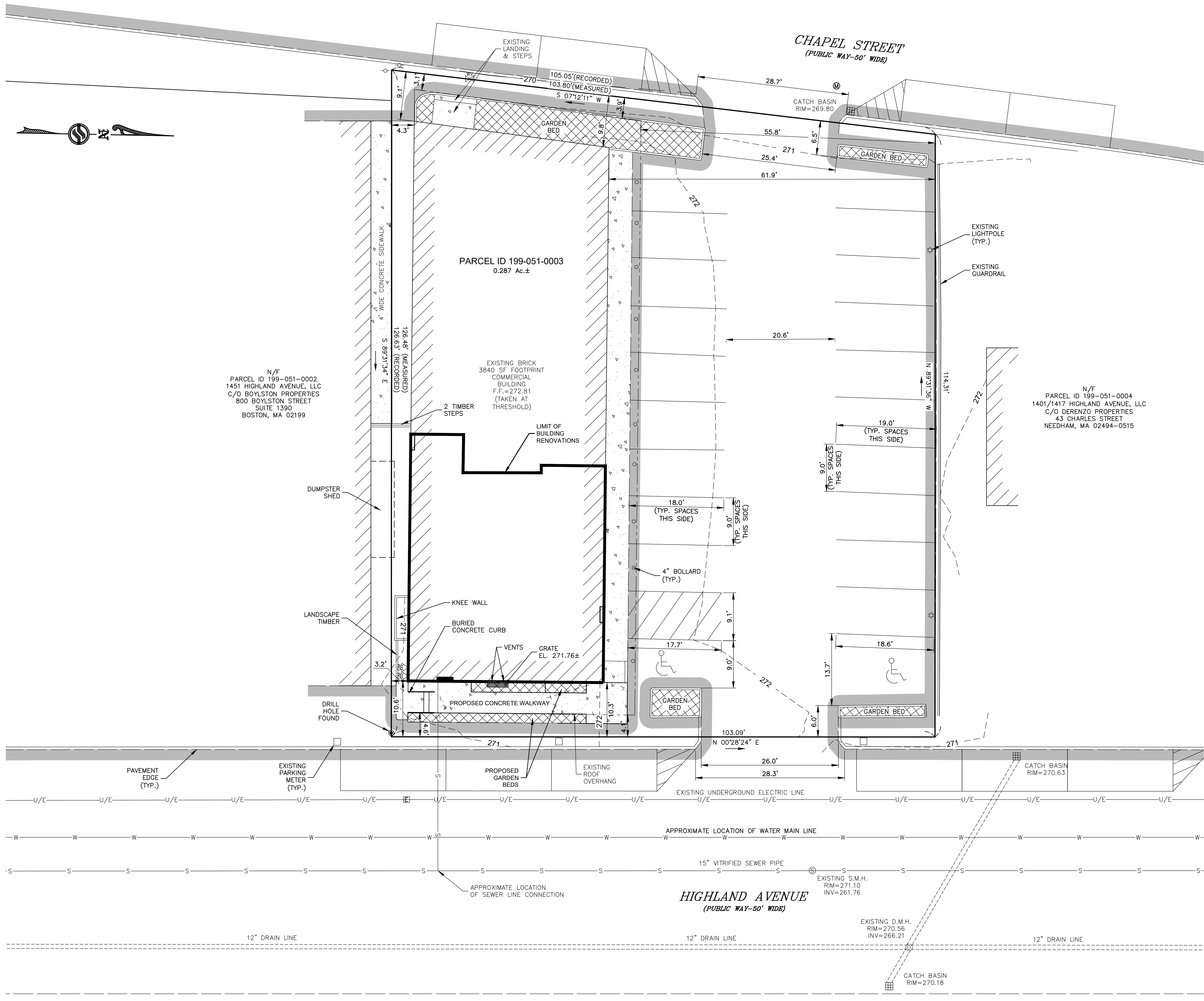
Sheet 1 of 2

Scale: 1" = 10'

Date: 8/5/2020

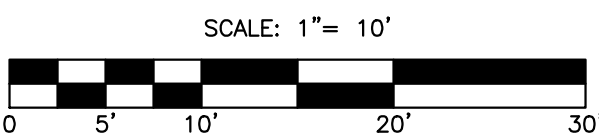
Prepared for:

Darlow Christ Architects
2326 Massachusetts Ave
Cambridge, MA 02140



NOTES

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED DEVELOPMENT OF A BANKING FACILITY IN A PORTION OF THE EXISTING BUILDING.
2. THE PROPOSED DEVELOPMENT ON THIS PARCEL FEATURES:
 - A. RENOVATION TO 1458.5 SF OF THE FIRST FLOOR OF CENTURY BANK
 - B. RENOVATION TO 912 SF OF THE BASEMENT OF CENTURY BANK
 - C. RENOVATION TO 231.5 SF OF THE BASEMENT COMMON AREA
 - D. CONSTRUCTION OF NEW STAIRS AND RAMP TO ACCESS WALK-UP TELLER WINDOW
 - E. EXTERIOR IMPROVEMENTS TO BUILDING FACADE
 - F. INSTALLATION OF NEW SIGNAGE
3. PROPOSED FACILITY TO BE SERVICED BY MUNICIPAL WATER SERVICE.
4. PROPOSED FACILITY TO BE SERVICED BY MUNICIPAL SEWER SERVICE.
5. PROPOSED FACILITY WILL BE HEATED USING NATURAL GAS FUEL.
6. EXISTING ON-SITE PARKING INCLUDING ACCESSIBLE PARKING WILL SERVICE THE FACILITY.
7. EACH HANDICAP ACCESSIBLE PARKING SPACE SHALL BE MARKED WITH PAVEMENT PAINTING AND AN UPRIGHT SIGN.
8. ALL WORK SHALL CONFORM TO TOWN OF NEEDHAM STANDARDS.
9. PRIOR TO CONSTRUCTION, THE CONTRACTOR SHALL VERIFY THAT THEY HAVE THE MOST RECENT SET OF PLANS. ALL WORK SHALL BE PERFORMED USING A COMPLETE SET OF PLANS AS SOME ITEMS ARE NOT SHOWN ON ALL SHEETS.
10. THE ENGINEER SHALL BE NOTIFIED IMMEDIATELY IF CONDITIONS ARE FOUND THAT DO NOT MATCH WHAT IS SHOWN ON THESE PLANS.



1	Updated notes & parking lot dimensions	8/18/20
No.	Revision	Date
Drawn by: CRN		Checked by:

Preliminary Site Development
1433 Highland Ave
Needham, MA
Parcel ID: 199-051-0003



183 Rockingham Rd, Unit 3 East
Windham, NH 03087

(603) 647-8700
www.sfceng.com

Sheet 2 of 2

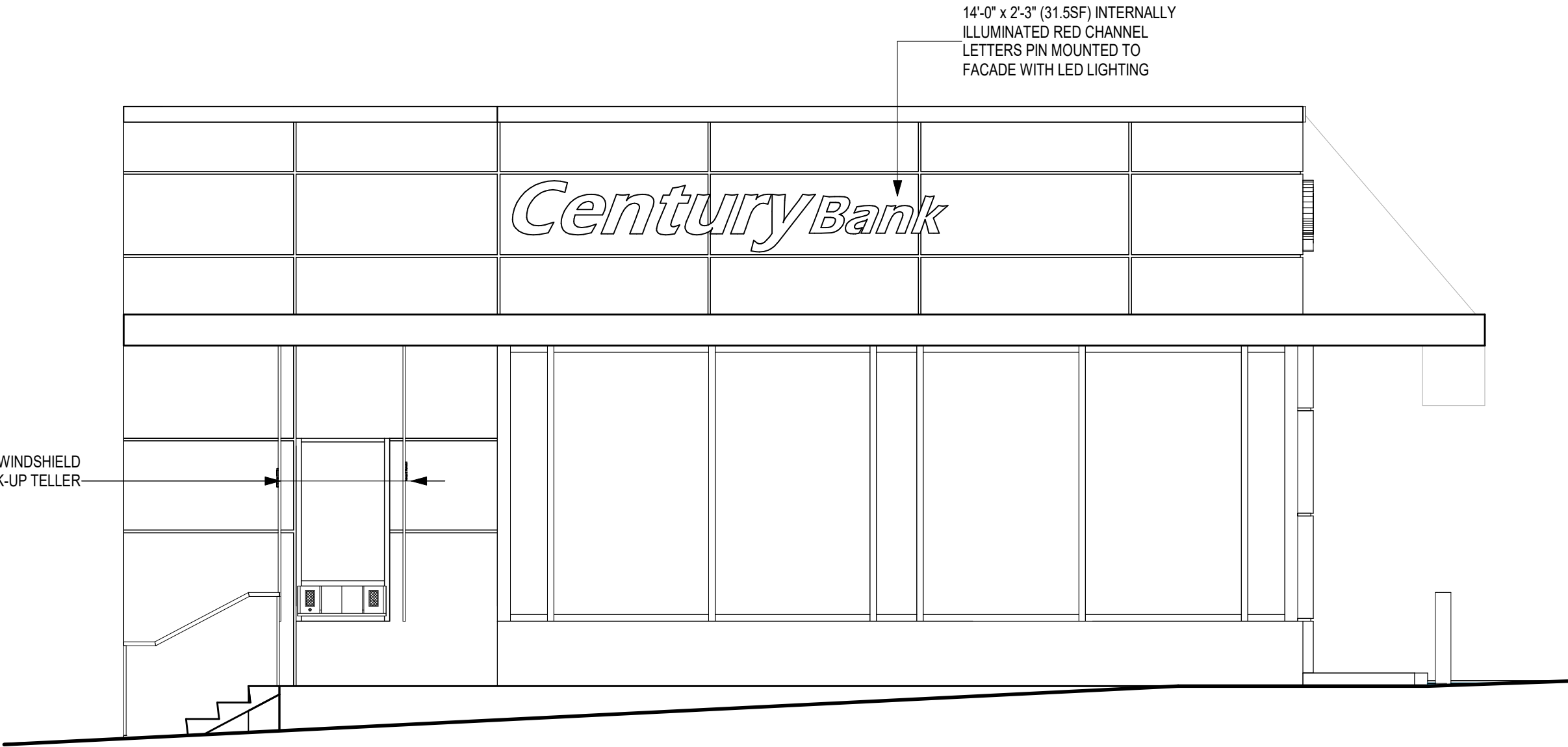
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Date: 8/5/2020

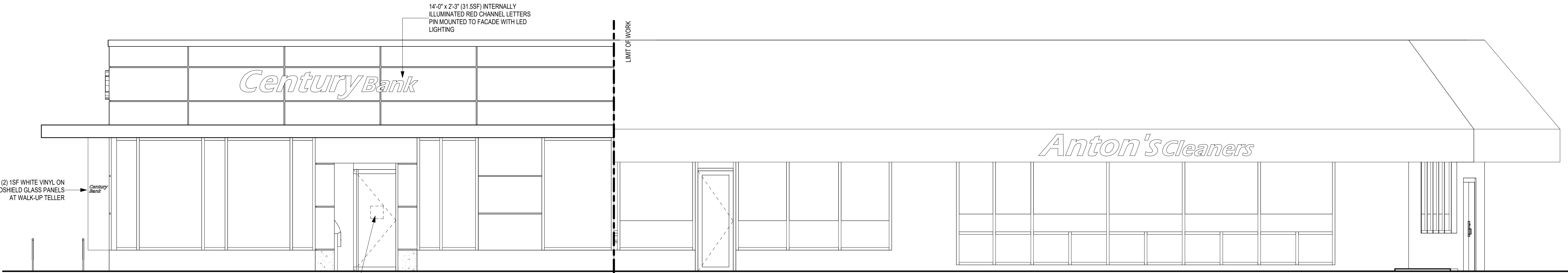
Prepared for:

Darlow Christ Architects
2326 Massachusetts Ave
Cambridge, MA 02140

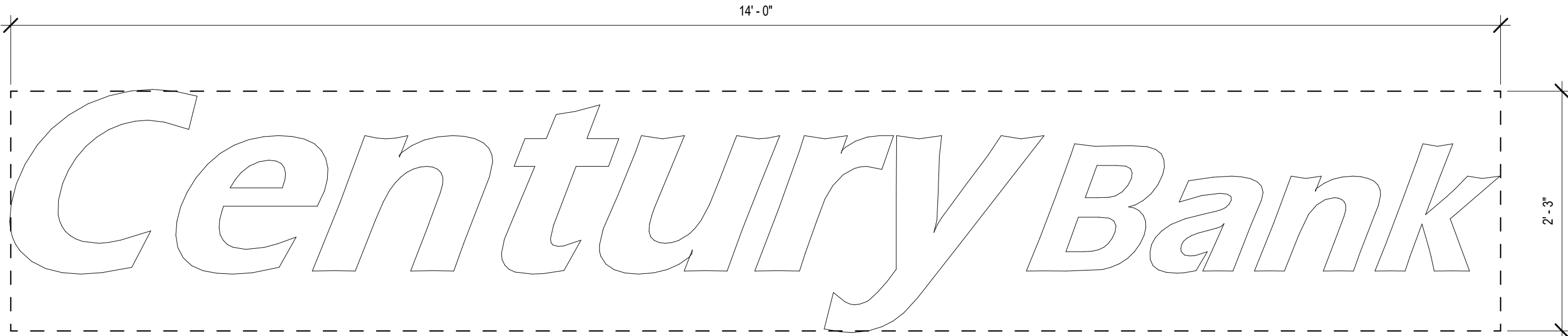
SIGNAGE AREA	
TYPE	SF
TWO PRIMARY SIGNS, ONE MOUNTED ON HIGHLAND AVE FACING EAST ELEVATION AND ONE MOUNTED ON PARKING LOT FACING NORTH ELEVATION: INTERNALLY ILLUMINATED RED CHANNEL LETTERS (WITH LED LIGHTING) 14'-0" x 2'-3" = 31.5 sf each	63
TWO SECONDARY SIGNS, ONE ON EACH GLASS PANEL AT WALK-UP TELLER VINYL ON RED GLASS 1'-6" x 0'-8" = 1 sf each	2
HOURS OF OPERATION VINYL ON GLASS DOOR ENTRANCE (1) NOT TO EXCEED 2SF	2
TOTAL	67



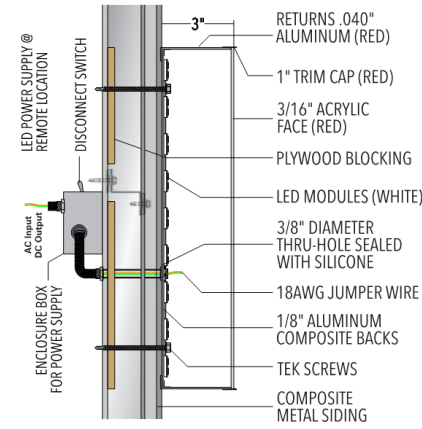
1 EAST ELEVATION -HIGHLAND AVENUE
1/4" = 1'-0"



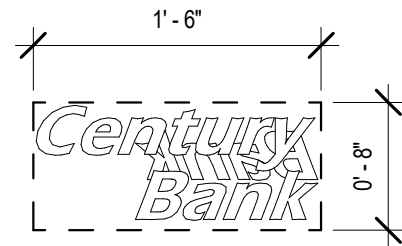
2 NORTH ELEVATION -PARKING LOT
1/4" = 1'-0"



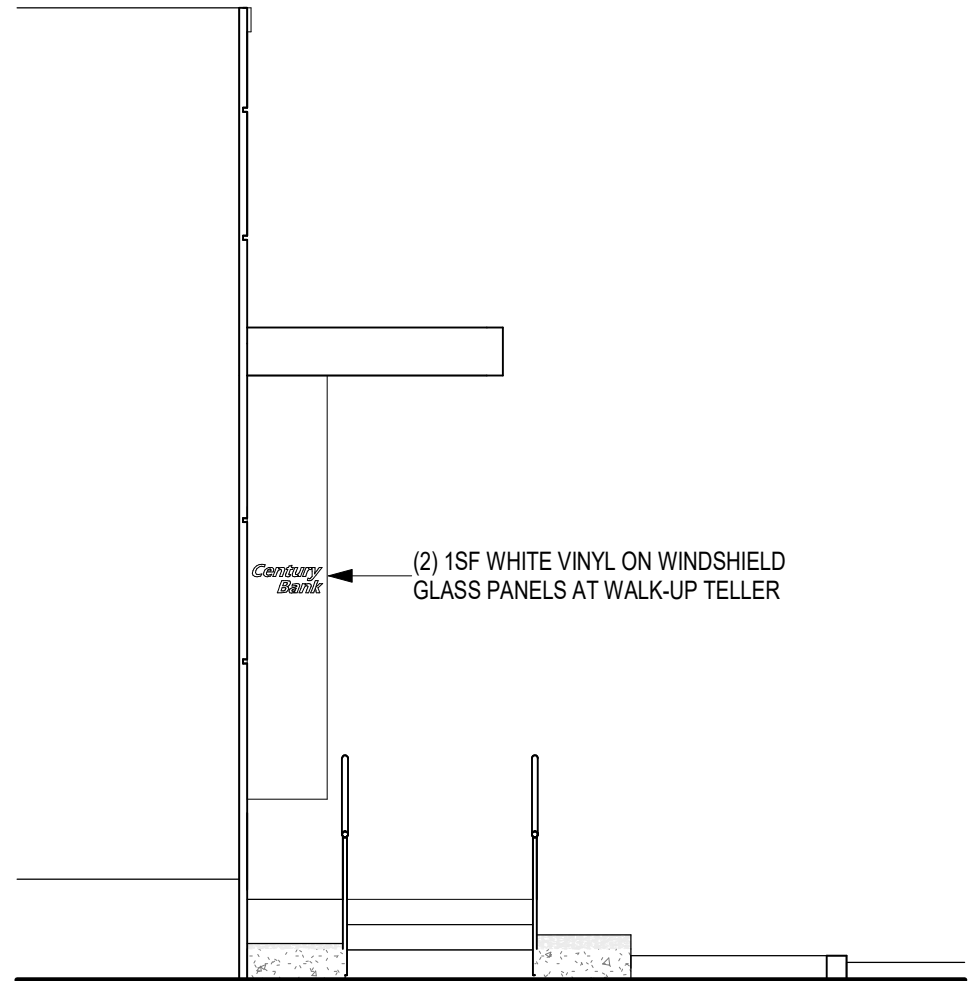
4.1 PRIMARY SIGN
1" = 1'-0"



4.2 PRIMARY SIGN SECTION
1 1/2" = 1'-0"



5 SECONDARY SIGN
1" = 1'-0"



3 SOUTH ELEVATION -BACK ALLEY
1/4" = 1'-0"

NOT FOR CONSTRUCTION
A-5.0 Century Bank Needham

Highland Av, Needham MA

EXTERIOR SIGNAGE

As indicated

Scale

2007

Drawn by

AM

Project No.

08/04/2020

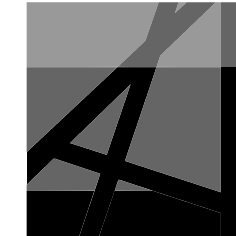
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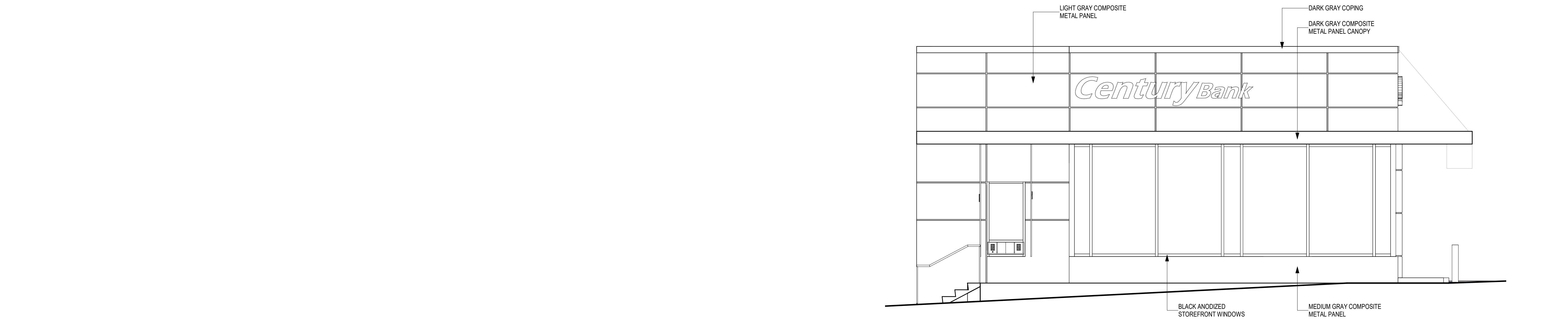


DARLOW CHRIST
ARCHITECTS

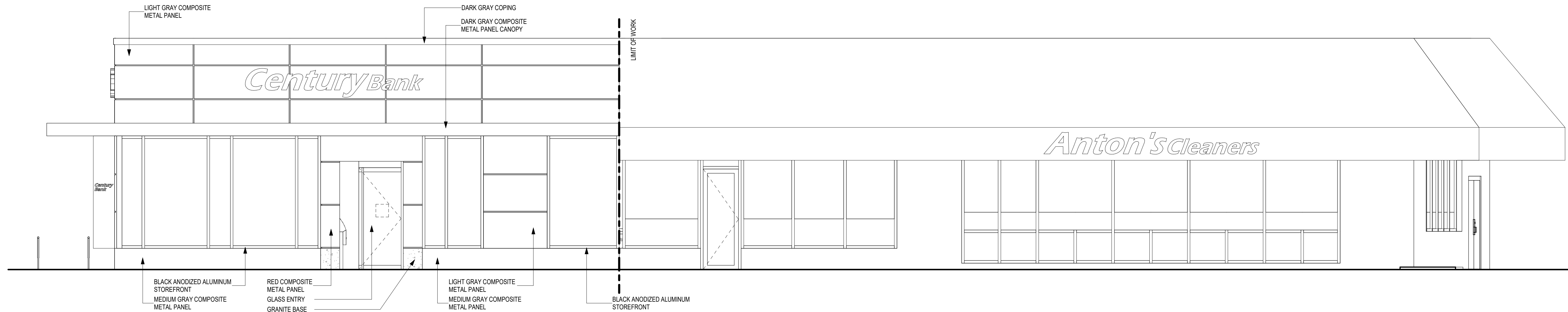
1 617.497.9191

1 617.497.5090

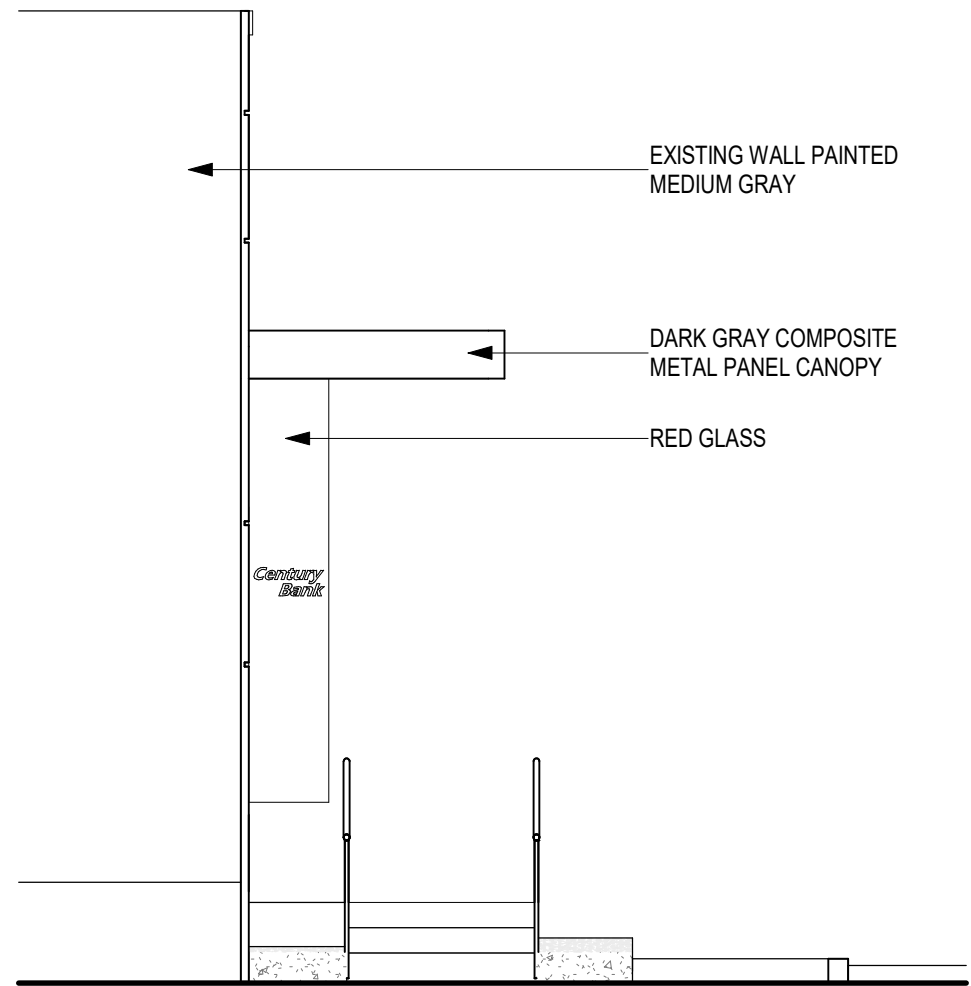
2326 Massachusetts Ave | Cambridge MA 02140



① EAST ELEVATION -HIGHLAND AVENUE
1/4" = 1'-0"



② NORTH ELEVATION -PARKING LOT
1/4" = 1'-0"



③ SOUTH ELEVATION -BACK ALLEY
1/4" = 1'-0"

NOT FOR CONSTRUCTION
A-5.1 Century Bank Needham
Highland Av, Needham MA
EXTERIOR ELEVATIONS

1/4" = 1'-0"	08/04/2020
Scale	
2007	
DATE	
AM	
Drawn By	
Scale	



EAST FACADE - HIGHLAND AVENUE



EAST FACADE - HIGHLAND AVENUE



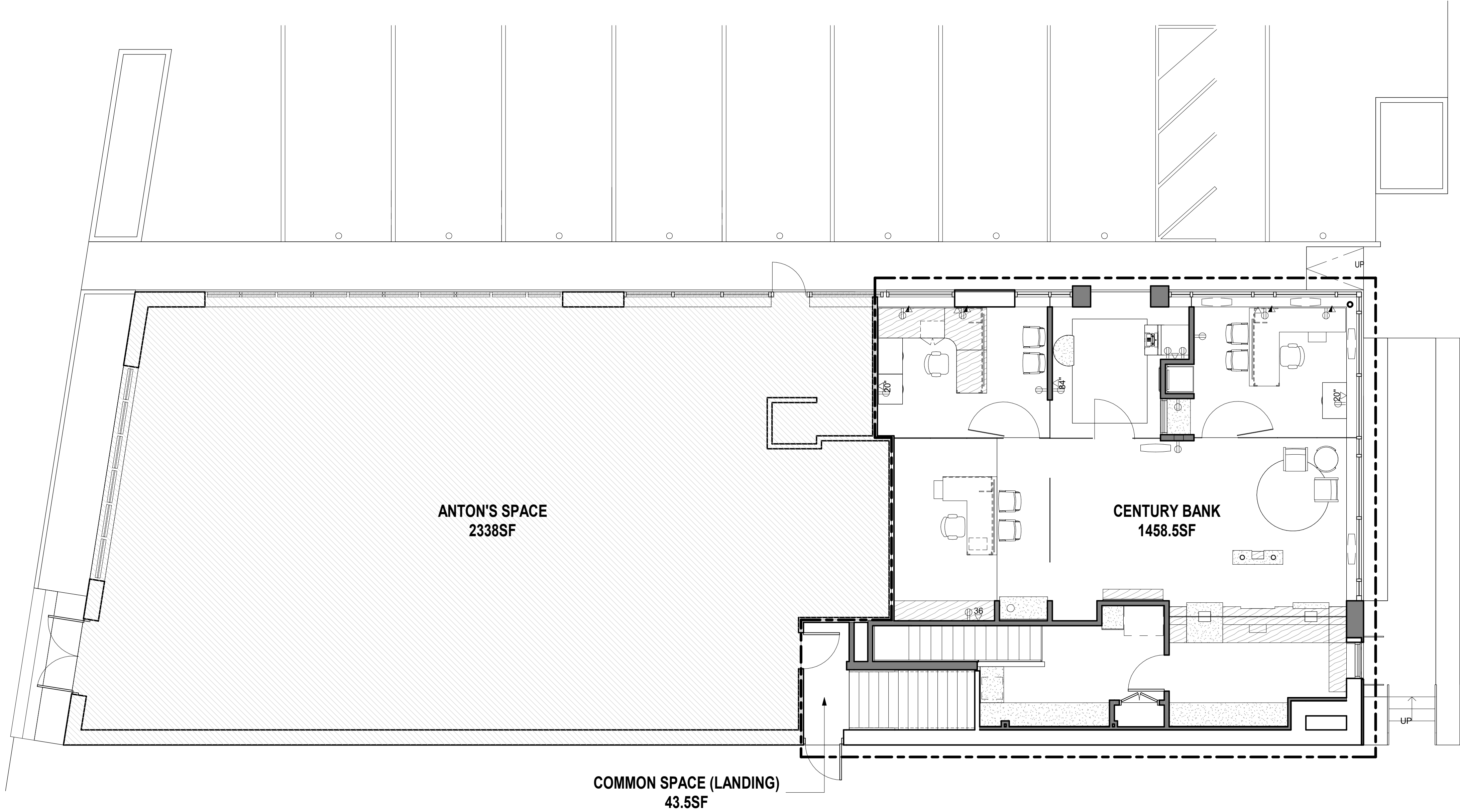
NORTH FACADE - PARKING LOT



NORTH FACADE - PARKING LOT

NOT FOR CONSTRUCTION
A-11.1 Century Bank Needham Highland Av, Needham MA
RENDERINGS

Scale	08/04/2020
2007	
AM	
Drawn By	



FIRST FLOOR AREA	
SPACE	SF
CENTURY BANK SPACE	1458.5
COMMON SPACE	43.5
ANTON'S SPACE	2338
TOTAL FIRST FLOOR AREA	3840
BUILDING AREA	5436

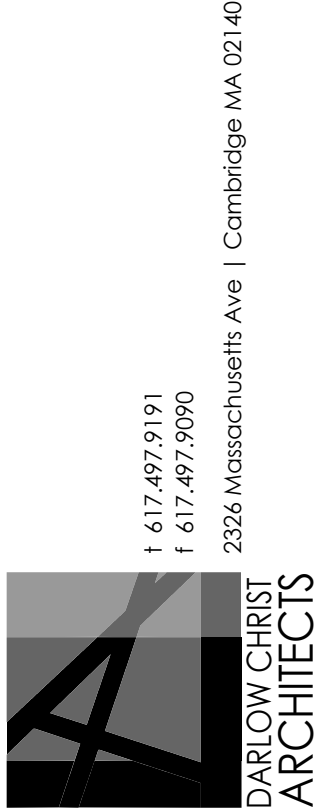
NOT FOR CONSTRUCTION

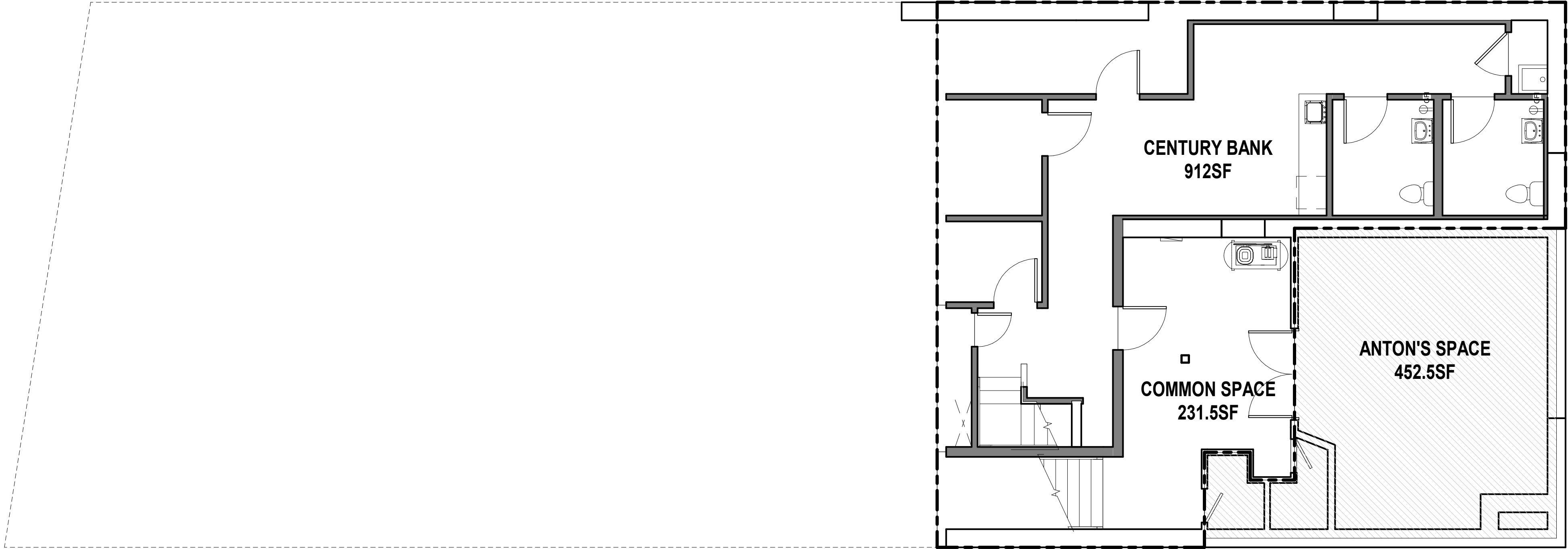
A-12.1Century Bank Needham

Highland Av, Needham MA

FIRST FLOOR PLAN

3/16" = 1'-0"	08/04/2020
Scale	08/18/2020
2007	
AM	
Drawn By	Drawn By





BASEMENT FLOOR AREA	
SPACE	SF
CENTURY BANK SPACE	912
COMMON SPACE	231.5
ANTON'S SPACE	452.5
TOTAL BASEMENT AREA	1596
BUILDING AREA	5436

From: [Lee Newman](#)
To: [Jeanne McKnight \(jeannemcknight@comcast.net\)](#); ["Paul S. Alpert"](#); [mj@jacobs-thomas.com](#); ["Ted Owens"](#); [Adam Block](#)
Cc: [Alexandra Clee](#)
Subject: 225 Highland Avenue
Date: Tuesday, September 22, 2020 5:03:05 PM
Attachments: [SPMP 2008-08 Amendment \(August 2011\) to V.S.A. LLC, 225 Highland Ave.pdf](#)

To All,

The second project I wish to discuss tonight is Gymboree which is located at 225 Highland. Expression-Enrichment proposes to take over tenancy of the Gymboree space and wishes for the Board to agree to a transfer of the permit under Section 3.7 of the current Gymboree decision. The question is whether the proposed use fits within the currently approved use profile or if a new special permit will be required. The proposed use will require the need for a further parking waiver.

I have attached the Gymboree decision and pasted below some of the relevant sections.

1) Expressions- Enrichment proposes the following hours of operation: 8:30a-5pm (Monday-Friday). Expressions- Enrichment will be holding classes during the following times: 10:00am-12:30pm (this accounts for 15 min staggered spacing to ensure classes are prompt and cleaning occurs) & 2:00pm-5:00 pm (this also accounts for 15 min staggered spacing to ensure classes are prompt and cleaning occurs). Expressions-Enrichment will operate on occasion on weekends for birthdays and other activities as such.

Decision says: 3.4 The Gymboree may be open from 8:30 a.m. to 5:00 p.m. Classes shall only be held from 9:00 a.m. to noon, 5 days a week, and from noon to 4 p.m. two days each week. Classes shall be staggered with 15 minute intervals between sessions so as to ensure sufficient time for one group to leave before the next group arrives. The remaining weekday afternoons may be open to free play times. On weekends the facility may be used to host parties and other activities. Minor schedule changes shall be permitted with respect to class start and finish times, but the intensity of use shall not increase.

Applicant proposes same hours of operation. The difference here is that applicant offers afternoon classes 5 days per week (Gymboree 2 afternoon days per week). Further applicant's last class ends at 5PM and Gymboree's last class ends at 4pm.

2) Expressions- Enrichment proposes: Expressions- Enrichment_classes will be of the same nature as the former Gymboree; without the physical exercise classes. Applicant's program will offer enrichment based courses for school-aged children and adults (for our 'Mommy and Me programs) in the Art discipline.

Decision says: 1.4 Gymboree provides a variety of different classes and age-appropriate activities for children ages 0 to 5 years old. Classes include: play and learn, music, art, sports, family fun and school skills. Play and Learn classes encourage development through play and learning with a seven level program designed to support a child's growth at the child's individual pace. Music classes use dance, song, movement games, and instruments to

enhance a child's development and love of music. Art classes use painting, sculpture, drawing collage, dramatic play and more to encourage confidence, inspire imagination and self-expression, and support artistic potential. Sports classes utilize non-competitive interactive games and sports which emphasize flexibility, confidence and emotional well being to build strong bodies and minds. Family fun classes consist of learning activities created for groups of siblings and friends of a variety of ages. School skills classes are designed to build the social, emotional and intellectual skills of preschool children ages 3-5.

The primary difference I see here is the age of participants and the addition of adults to accompany the children.

3) Expressions- Enrichment proposes: Classes will be strictly one hour in nature except for the performing arts program which is two hours every other day. They will offer classes with no more than 16 participants per class per hour. Staffing is comprised of Resident Artists and Instructors per class per hour. Transportation service is not included in their program; though a participant may sign up for that additional service. There will be 8 total staff at this location. At any time, they will have 4 instructor coordinators in the building, who will not be parked on-site. Second, 4 drivers, who will not be parked or in the building during the program operation as they have transportation contracts that require them to be in and around the greater Needham area. Lastly, the Director will be splitting his time between our locations and will strictly be here in the morning and early afternoons. Again not parking onsite.

Decision says: 3.3 The maximum number of children participating in classes or functions at any given time shall not exceed sixteen (16). The maximum number of staff persons present at any given time shall not exceed two (2). Notwithstanding the above, the Board hereby retains jurisdiction to reduce the maximum number of children participating in classes or functions at any given time, or to require additional off street parking, as necessary in the event of parking problems on the site.

Differences here are greatest. Student number is the same, but the instructor number is higher. That is my biggest concern as it would influence the required parking and would trigger the need for an additional parking waiver. Also, I do not know what their transportation service is all about. The change in number of instructors will change the parking requirement resulting in the need for a parking waiver. (See Section 1.7 of the decision).

I appreciate your input.

Lee



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY
DEVELOPMENT DEPARTMENT

RECEIVED TOWN CLERK
NEEDHAM, MA 02492

2011 AUG 24 PM 5:08

609 Webster Street
Needham, MA 02492
781-455-7500

PLANNING

AMENDMENT OF DECISION August 9, 2011

Major Project Site Plan Special Permit

V.S.A. LLC
And Curious Bubble, Ltd.
Application No. 2008-08

(Decision dated November 12, 2008, Amended August 11, 2009 and January 4, 2011)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of V.S.A., LLC, 180 Country Way, Needham, Massachusetts and Curious Bubble, Ltd. d/b/a Gymboree Play & Music of Needham, 319 Littleton Road, Suite 300, Westford, MA 01886, (hereinafter referred to as the Petitioner) for property located at 225 Highland Avenue, Needham, Massachusetts. Said property is shown on Needham Town Assessors Plan No. 74 as Parcels 36 and 37 containing a total of 15,798 square feet.

This decision is in response to an application submitted to the Board on July 11, 2011, by the Petitioner for: (1) a Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and Section 4.2 of Major Project Special Permit No. 2008-08, dated November 12, 2008, amended August 11, 2009 and January 4, 2011; (2) a Special Permit under Section 3.2.5.2(c) of the By-Law for a private school, nursery or kindergarten not otherwise classified under Section 3.2.5.1; (3) a Special Permit under Section 3.2.5.2 (o), if applicable, for an indoor athletic or exercise facility; (4) a Special Permit under Section 3.1, if applicable, for a use in the same category, similar in kind to, and similar in impact to, a use allowed by Section 3.2; and, (5) a Special Permit under Section 5.1.1.6 of the By-Law to further waive strict adherence with the requirements of Section 5.1.2 (Required Parking).

The requested Major Project Site Plan Special Permit would, if granted, permit the Petitioner to build out the entire second floor at the premises (approximately 3,875 square feet) for use by Curious Bubble, Ltd., d/b/a Gymboree Play & Music of Needham ("Gymboree"). Gymboree provides a variety of different classes and age-appropriate activities for children ages 0 to 5 years old. Classes include: play and learn, music, art, sports, family fun and school skills. The average class size is between 8 and 12 children with a maximum class size of 16 children. The hours of operation will be 8:30 a.m. to 5:00 p.m. On weekends the facility is used to host parties and other activities.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters, and other parties in interest, as required by law, the hearing was called to order by Chairperson, Bruce T. Eisenhut, on Tuesday, August 9, 2011 at 7:00 p.m., in the Media Center of the Needham High School, 609 Webster Street, Needham, Massachusetts. Board members, Bruce T. Eisenhut, Sam Bass Warner, Martin Jacobs, Jeanne S. McKnight, and Ronald W. Ruth were present at the August 9, 2011 public hearing. The record of the proceedings and the submission upon which this decision is based may be referred to in the office of the Town Clerk or the office of the Board.

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

- Exhibit 1 - Completed Application Form for Amendment to Major Project Site Plan Special Permit dated July 11, 2011, with Addendum A.
- Exhibit 2 - A letter to Lee Newman, Planning Director, from George Giunta Jr., dated July 8, 2011.
- Exhibit 3 - Plan entitled "Proposed Gymboree Play and Music at: 225 Highland Avenue, Needham, MA," prepared by Nunes Trabucco Architects, 315A Chestnut Street, Needham, MA, consisting of 1 sheet: Sheet A1.1, entitled "Second Floor Plan," dated June 24, 2011.
- Exhibit 4 - Table showing the current enrollment allocation for the Gymboree facility in Newton.
- Exhibit 5 - Overview of Gymboree classes comprising 3 pages.
- Exhibit 6 - Letter to the Board from Anthony L. Del Gaizo, dated August 8, 2011.
- Exhibit 7 - Inter Departmental Communication (IDC) to the Needham Planning Board from the Health Department, Janice Berns, dated July 18, 2011; IDC to the Needham Planning Board from the Department of Public Works, Anthony DelGaizo, Assistant Director, dated August 9, 2011; IDC to the Needham, Planning Board from the Needham Police Department, Chief Thomas Leary, dated August 9, 2011; and IDC to the Needham Planning Board from the Needham Fire Department, Inspector Paul Buckley, dated August 9, 2011.

Submitted after the close of the public hearing:

- Exhibit 8 - Revised Application Form for Amendment, dated August 24, 2011.

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

FINDINGS AND CONCLUSIONS

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

- 1.1 The Petitioner is seeking to modify Major Project Site Plan Special Permit No. 2008-08, issued to V.S.A., LLC, 180 Country Way, Needham, Massachusetts, dated November 12, 2008, amended August 11, 2009 and January 4, 2011, ("the Decision") as follows: to build out the entire second floor at the premises (approximately 3,875 square feet) for use as a Gymboree facility. Gymboree provides a variety of different classes and age-appropriate activities for children ages 0 to 5 years old. Classes include: play and learn, music, art, sports, family fun and school skills.
- 1.2 The Petitioner is requesting this modification because the Petitioner originally intended and the original permit specified that the second floor be office space; however, almost every prospective tenant has been other than an office use.
- 1.3 The second floor space proposed to be occupied by the Gymboree will be divided into a reception area, a large open play floor area, a secondary room for more focused instruction, and an office/stock room to be used for administrative purposes.

- 1.4 Gymboree provides a variety of different classes and age-appropriate activities for children ages 0 to 5 years old. Classes include: play and learn, music, art, sports, family fun and school skills. Play and Learn classes encourage development through play and learning with a seven level program designed to support a child's growth at the child's individual pace. Music classes use dance, song, movement games, and instruments to enhance a child's development and love of music. Art classes use painting, sculpture, drawing collage, dramatic play and more to encourage confidence, inspire imagination and self-expression, and support artistic potential. Sports classes utilize non-competitive interactive games and sports which emphasize flexibility, confidence and emotional well being to build strong bodies and minds. Family fun classes consist of learning activities created for groups of siblings and friends of a variety of ages. School skills classes are designed to build the social, emotional and intellectual skills of preschool children ages 3-5.
- 1.5 The average class size is between 8 and 12 children with a maximum class size of 16 children. Approximately 80% of the time, there is only one staff person present, but occasionally, especially in the afternoon, there may be one additional staff person.
- 1.6 The hours of operation will be 8:30 a.m. to 5:00 p.m. Classes are typically held from 9:00 a.m. to noon, 5 days a week, and from noon to 4 p.m. two days each week. Classes are staggered with 15 minute intervals between sessions so as to ensure sufficient time for one group to leave before the next group arrives. The remaining weekday afternoons are typically when the open free play times are offered. On weekends the facility is used to host parties and other activities.
- 1.7 The proposed use was not specifically detailed in the Table of Required Parking, Section 5.1.2 of the By-Law. Accordingly, the Planning Board recommended to the Building Inspector the number of spaces required based on the expected parking needs of occupants, users, guests and employees. Such recommendation was based upon Planning Advisory Report No. 432. In the subject case where facility size and occupancy was known 1 space per the maximum capacity of patrons, plus 1 space per the largest working staff was required. Based on a proposed maximum class size of 16 children and two staff persons the recommended number of parking spaces for this use was established at 18 parking spaces.
- 1.8 Because of the change of use on the second floor of the building from office to the Gymboree facility, the parking demand associated with the building, and the related parking waiver, will be increased by 5 spaces, from 28 spaces to a new total parking requirement of 33 parking spaces calculated as follows: Basement: 1,294 square feet @ 1 per 850 square feet (warehouse) = 1.52 spaces; First Floor: 3,875 square feet @ 1 per 300 square feet (retail or consumer service) = 12.92 spaces; Second Floor: 3,875 square feet @ 1 space per the maximum capacity of patrons, plus 1 space per the largest working staff = 18 spaces, totaling 32.44, or 33 spaces. However, the Petitioner asserts that on average a total of 11 spaces would be required for the proposed Gymboree use based on the maximum average class size of 12 students, less 25% for multiple child enrollment, plus two for the maximum number of staff at any given time.
- 1.9 Most parents or caregivers stay with the child during the classes or play time because of the young age of the children. However, the Petitioner notes that 25% of enrollment at the current Newton location consists of siblings, so there is only one parent and one car for two or more of these children.
- 1.10 Adjoining premises will be protected against seriously detrimental uses on the site by provision of surface water drainage, sound and site buffers, and preservation of views, light and air. The Petitioner proposes no change in building footprint, no change in site plans and no change in operation or allowed use of the first floor.

- 1.11 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets have been assured. There is presently limited off-street parking associated with the property, which consists of 22 spaces to the rear of the building and 5 leased off-site parking spaces. No changes are contemplated for the parking layout or the current curb cuts. The site has been designed to accommodate safe vehicular and pedestrian movement within the site and on adjacent streets.
- 1.12 Adequate parking exists for the proposed uses. Although the Petitioner is seeking a waiver of an additional 5 parking spaces over what is currently approved (a total of 18 spaces are required for the second floor), the Board finds that 14 spaces are expected to be sufficient for the use (based on the maximum class size of 16 students, less 25% for multiple child enrollment, plus two for the maximum number of staff at any given time). In this case, the total required parking for the site would be increased by one space from 28 to 29. The Board further notes that the basement space with an associated parking requirement of 1.52 spaces is currently used for tenant storage and does not create an additional parking demand.
- 1.13 The Board finds that all of its findings and conclusions contained in Site Plan Special Permit No. 2008-08, issued to V.S.A., LLC, 180 Country Way, Needham, Massachusetts, by the Board on November 12, 2008, amended August 11, 2009 and January 4, 2011, are applicable to this Amendment, except as specifically set forth in this Amendment.

THEREFORE, the Board voted 4-1 to GRANT: (1) the requested Special Permit under Section 3.1, for a use in the same category, similar in kind to, and similar in impact to, a Private School, a use allowed by Special Permit in Section 3.2. Board members, Bruce T. Eisenhut, Sam Bass Warner, Martin Jacobs, and Ronald W. Ruth voted in the affirmative. Jeanne S. McKnight voted in the negative.

THEREFORE, the Board voted 5-0 to GRANT: (1) the requested Special Permit under Section 5.1.1.6 of the By-Law to further waive strict adherence with the requirements of Section 5.1.2 (Required Parking); and (2) the requested Major Project Site Plan Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law and Section 4.2 of Major Project Special Permit No. 2008-08, dated November 12, 2008, as further amended August 11, 2009 and January 4, 2011, subject to and with the benefit of the following Plan modifications, conditions and limitations.

PLAN MODIFICATIONS

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

- 2.1 The Plan shall be modified to include the requirements and recommendations of the Planning Board as set forth below. The modified plans shall be submitted to the Planning Board for review, approval and endorsement. The Petitioner shall meet all requirements and recommendations, set forth below.

a) The Plan shall be modified to show the dimensions of the second floor space with square footage allocations designated.

CONDITIONS AND LIMITATIONS

- 3.0 The following conditions of this approval shall be strictly adhered to. Failure to adhere to these conditions or to comply with all applicable laws and permit conditions shall give the Board the rights and remedies set forth in Section 3.14 hereof.
- 3.1 The conditions and limitations set forth in Major Project Site Plan Special Permit No. 2008-08, issued to V.S.A., LLC, 180 Country Way, Needham, Massachusetts, dated November 12, 2008, amended August 11, 2009 and January 4, 2011, and as further amended by this Amendment are ratified and confirmed.
- 3.2 The Board approves the Gymboree use of the second floor of the building as conditioned herein.
- 3.3 The maximum number of children participating in classes or functions at any given time shall not exceed sixteen (16). The maximum number of staff persons present at any given time shall not exceed two (2). Notwithstanding the above, the Board hereby retains jurisdiction to reduce the maximum number of children participating in classes or functions at any given time, or to require additional off street parking, as necessary in the event of parking problems on the site.
- 3.4 The Gymboree may be open from 8:30 a.m. to 5:00 p.m. Classes shall only be held from 9:00 a.m. to noon, 5 days a week, and from noon to 4 p.m. two days each week. Classes shall be staggered with 15 minute intervals between sessions so as to ensure sufficient time for one group to leave before the next group arrives. The remaining weekday afternoons may be open to free play times. On weekends the facility may be used to host parties and other activities. Minor schedule changes shall be permitted with respect to class start and finish times, but the intensity of use shall not increase.
- 3.5 The operation of the Gymboree located at 225 Highland Avenue, Needham, Massachusetts shall be as described in Sections 1.3, 1.4, 1.5, and 1.6 of this Decision and as further described under the support materials provided under Exhibits 2, 3, 4 and 5 of this Decision.
- 3.6 This Special Permit to operate Gymboree at 225 Highland Avenue, Needham, MA is issued to Curious Bubble, Ltd., 319 Littleton Road, Suite 300, Westford, MA, and may not be transferred, set over, or assigned by Curious Bubble, Ltd., 319 Littleton Road, Suite 300, Westford, MA, to any other person or entity other than an affiliated entity in which Curious Bubble, Ltd. has a controlling interest of greater than 50 percent, without the prior written approval of the Board following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient.
- 3.7 The special permit and parking waivers granted herein are specifically premised upon the special characteristics of the Gymboree located at 225 Highland Avenue, Needham, Massachusetts. In the event of any change in the use permitted hereunder which would result in a greater parking demand, further site plan review will be required, and the Planning Board shall be entitled to evaluate the parking demand of the building as a whole.
- 3.8 The proposed Gymboree use shall contain the dimensions and shall be located in the building at 225 Highland Avenue, as shown on the Plan.

- 3.9 No building permit shall be issued in pursuance of the Special Permit and Site Plan Approval until:
- a. The final plans shall be in conformity with those previously approved by the Board, and a statement certifying such approval shall have been filed by this Board with the Building Inspector.
 - b. The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this decision granting this Special Permit and Site Plan Approval with the appropriate reference to the book and page number of the recording of the Petitioner's title deed or notice endorsed thereon.
- 3.10 The approximately 3,875 square feet of the building that is the subject of this Decision shall not be occupied until:
- a. There shall be filed with the Board and Building Inspector a Certificate of Compliance signed by a registered architect upon completion of the project certifying that the project was built according to the approved documents.
 - b. There be filed, with the Building Inspector, a statement by the Board approving the Certificate of Compliance, in accordance with said Decision.
- 3.11 In addition to the provisions of this approval, the Petitioner must comply with all requirements of all state, federal, and local boards, commission or other agencies, including, but not limited to the Building Inspector, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.12 The portion of the building that is authorized for construction by this Approval shall not be occupied or used, and no activity except the construction activity authorized by this permit shall be conducted within said area until a Certificate of Occupancy and Use or a Certificate of Temporary Occupancy and Use has been issued by the Building Inspector.
- 3.13 The Petitioner, by accepting this Approval, warrants that the Petitioner has included all relevant documentation, reports, and information available to the Petitioner in the application submitted, and that this information is true and valid to the best of the Petitioner's knowledge.
- 3.14 Violation of any of the conditions of this Approval shall be grounds for revocation of this Major Project Site Plan Special Permit, or of any building permit granted hereunder as follows: In the case of violation of any conditions of this Approval, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of the Major Project Site Plan Special Permit. As an alternative, the Town may enforce compliance with the conditions of this Approval by an action for injunctive relief before any court of competent jurisdiction. The Petitioner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Approval.

This approval shall be recorded in the Norfolk District Registry of Deeds. This Special Permit Amendment shall not take effect until a copy of this decision bearing the certification of the Town Clerk

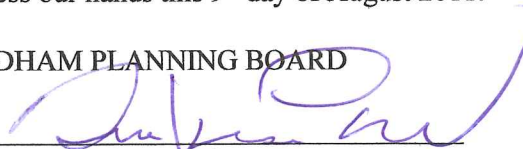
that twenty (20) days have elapsed after the decision has been filed in the Town Clerk's office or that if such appeal has been filed, that it has been dismissed or denied is recorded with Norfolk District Registry Deeds and until the Petitioner has delivered a certified copy of the recorded document to the Board.

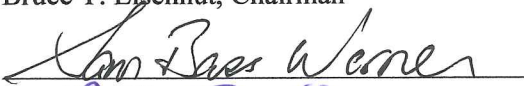
The provisions of this Special Permit Amendment shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, in full force and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

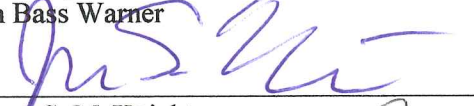
Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within twenty (20) days after filing of this decision with the Needham Town Clerk.

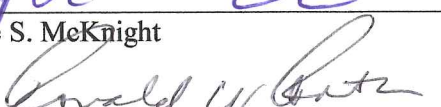
Witness our hands this 9th day of August 2011.

NEEDHAM PLANNING BOARD


Bruce T. Eisenhut, Chairman


Sam Bass Warner


Jeanne S. McKnight


Ronald W. Ruth

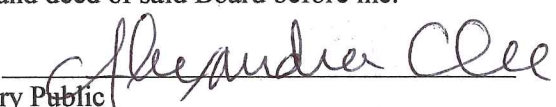
Martin Jacobs

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

Aug. 9 2011

On this 9 day of August 2011, before me, the undersigned notary public, personally appeared Bruce Eisenhut, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was in the form of a state issued drivers license, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.


Notary Public

My Commission Expires: April 2, 2015

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the decision on V.S.A., LLC, 180 Country Way, Needham, Massachusetts and Curious Bubble, Ltd., 319 Littleton Road, Suite 300, Westford, MA 01886, has passed, and there have been no appeals made to this office. (All Judicial Appeals taken from this decision have been dismissed.)

Date

Theodora K. Eaton, Town Clerk

Copy sent to:

Petitioner - Certified Mail #
Town Clerk
Building Inspector
Director, PWD
Board of Health
Conservation Commission

Board of Selectmen
Engineering
Fire Department
Police Department
George Giunta Jr.
Parties in Interest