

NEEDHAM PLANNING BOARD

Tuesday February 1, 2022

7:00 p.m.

Virtual Meeting using Zoom

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

(Instructions for accessing below)

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

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

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

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

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

1. Public hearing continued:

7:00 p.m. Amendment to Major Project Site Plan Special Permit No. 2006-04: Sol Soul Family Foods LLC, c/o Ivan Millan-Pulecio, Chef/Owner, d/b/a Hearth Pizzeria, 59 Mount Vernon Avenue, Needham, MA 02492, Petitioner (Property located at 974 Great Plain Avenue, Needham, MA).
Please note: this hearing has been continued from the January 18, 2022 meeting.

2. Decision: Amendment to Major Project Site Plan Special Permit No. 2006-04: Sol Soul Family Foods LLC, c/o Ivan Millan-Pulecio, Chef/Owner, d/b/a Hearth Pizzeria, 59 Mount Vernon Avenue, Needham, MA 02492, Petitioner (Property located at 974 Great Plain Avenue, Needham, MA).

3. Decision: Amendment to Major Project Site Plan Special Permit No. No. 98-6: Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, Petitioner, (Property located at Existing Municipal Parking Lot on Chestnut and Lincoln Streets, Needham, Massachusetts).

4. Discussion of proposed change to Major Project Site Plan Special Permit No. 2021-01, 100-110 West Street.

5. Decision: Major Project Site Plan: Needham Enterprises, LLC, 105 Chestnut Street, Suite 28, Needham, MA, Petitioner. (Property located at 1688 Central Avenue, Needham, MA). Regarding proposal to construct a new child-care facility of 9,966 square feet and 30 parking spaces, that would house an existing Needham child-care business, Needham Children's Center (NCC).

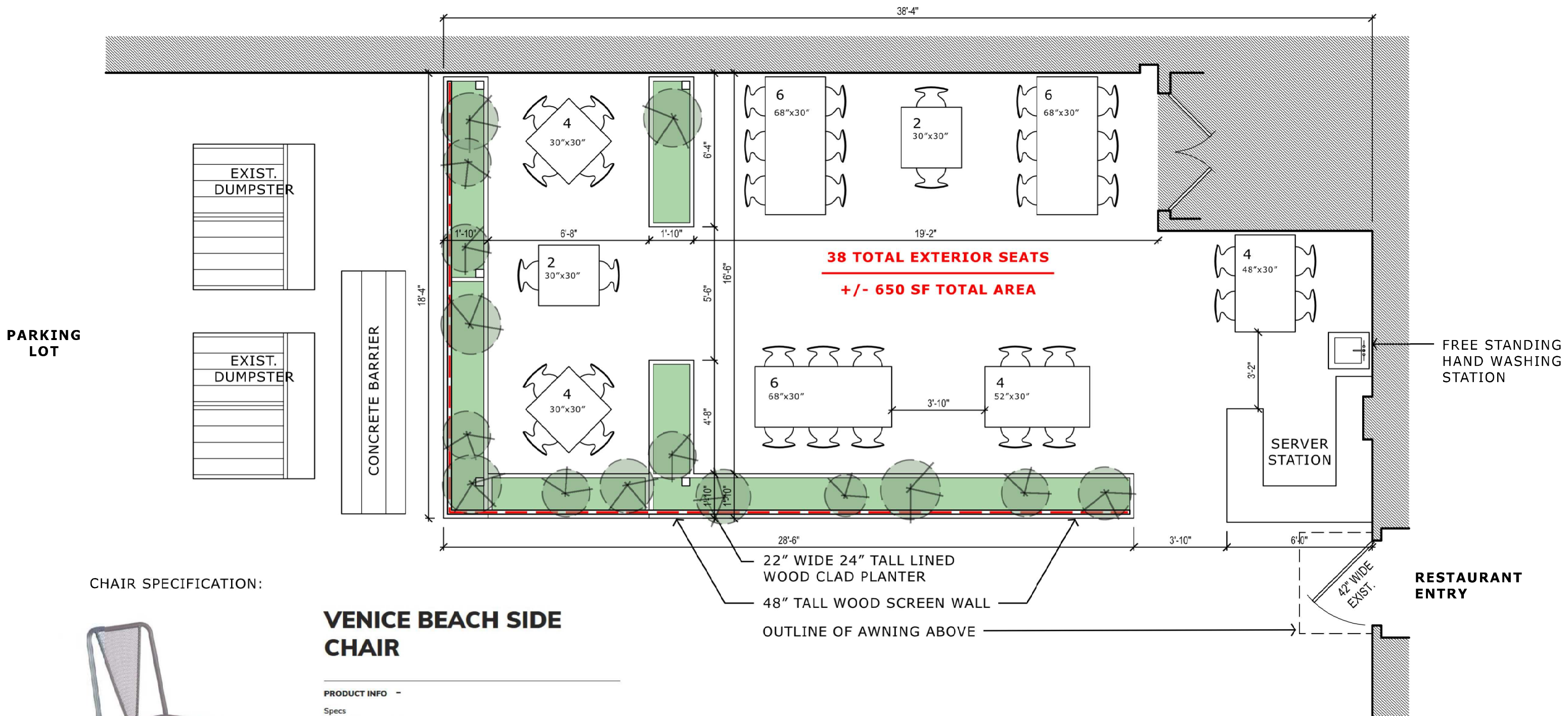
6. Minutes.

7. Report from Planning Director and Board members.

8. Correspondence.

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





Plan 25-

25

KNOW ALL BY THESE PRESENTS: that Simon II Associates Limited Partnership, a Massachusetts Limited Partnership, of which Benjamin Gilfix, Stanley Simon and Gary B. Simon are the general partners, of Boston, Massachusetts ("GRANTOR") for ten dollars (\$10.00) and other good and valuable consideration, the receipt of which is mutually agreed grants to the Town of Needham, a municipal corporation organized under the laws of the Commonwealth of Massachusetts ("GRANTEE"), whose address is Town Hall, 1471 Highland Avenue, Needham, MA 02492, the following easements:

1. An easement on and over the land lying between the buildings known as 970 - 986 Great Plain Avenue and Chestnut Road, shown as a part of Parcel 63 on Assessors Plan No. 47, and an easement on and over the parcel of land on Chestnut Road, shown as Parcel 62 on the Assessors Plan Numbered 47, for the purposes of the grading, resurfacing, operating and maintaining a municipal parking lot thereon. Said EASEMENTS are shown on a plan to be recorded herewith entitled "Plan of Land Chestnut Street in Town of Needham (Norfolk County) Massachusetts, January 15, 1999, by The BSC Group, 425 Summer Street, Boston, Massachusetts 02210", (hereinafter referred to as PLAN A), and designated on said PLAN A as follows:

Easement B and Easement F

Within the area designated Easement B, the Grantor reserves to itself, its heirs and assigns the right to locate trash dumpsters and to stage and store equipment and materials necessary to repair or renovate the building known as 970-986 Great Plain Avenue.

2. All right, title and interest the GRANTOR has in Chestnut Road for its use as a public or private way, except as provided hereunder, so long as the GRANTEE uses the way for a municipal public parking lot or a pedestrian walkway. Any such pedestrian walkway shall not interfere with pedestrian access to the GRANTOR'S property or with views, light, air to the GRANTOR'S property.

The GRANTOR reserves its rights to operate and maintain all underground utility easements that service the buildings known as 970 - 986 Great Plain Avenue and shall have the right to enter upon the easements granted hereunder to excavate, repair and replace such utilities, provided that it shall give at least 30 days written notice to the GRANTEE, except in the event of an emergency requiring immediate repair. Said work shall be done as expeditiously as possible. Upon completion of the replacement or repair, the GRANTOR shall return the condition of the property to the same condition that it was in prior to the damage caused by the condition that necessitates the replacement or repairs.

The buildings known as 970 - 986 Great Plain Avenue, Needham, are located on the lot of land on said PLAN A and entitled "N/F SIMON II, ASSOC. LTD. PARTNERSHIP Map 47, Lot 62, Deed Book 8216, Page 572".

RECEIVED AND RECORDED
NORFOLK COUNTY
REGISTRY OF DEEDS
NEEDHAM, MA

CERTIFY

Barry T. Hannon
BARRY T. HANNON, REGISTER

124103

99 AUG 20 AM 10:46

REFER TO PLAN NO. 517-2/1999
PLAN BOOK NO. 467-12 SHEET 18

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N O T

All work performed by the GRANTEE in the easement area shall be in good and workmanlike manner. In performing the work permitted hereunder, the GRANTEE will not do any work that is inconsistent with the intent and purpose of this easement or which will create any nuisance, or commit any act or waste that will be harmful or which will interfere with the GRANTOR'S adjoining land and premises.

The GRANTOR agrees to hold the GRANTEE harmless and indemnify the GRANTEE and its successors and assigns and its employees, contractors, licensees and invitees from and against any and all claims, losses or damages for property damage or personal injury or liability, or either, resulting in any way by reason of the GRANTOR'S or his employees', contractors', agents', assigns', licensees' or invitees' own negligent activity or omission in the easement area. The GRANTEE agrees to hold the GRANTOR harmless and indemnify the GRANTOR and his heirs, successors and assigns and his employees, contractors, licensees and invitees from and against any and all claims, losses or damages for property damage or personal injury or liability, or either, resulting in any way by reason of the GRANTEE'S or its employees', contractors', agents', assigns', licensees' or invitees' or negligent activity or omission in the easement area up to the limit of one hundred thousand dollars (\$100,000) per claim or for such different amount as the GRANTEE may be liable by the provisions of M.G.L.A., c. 258, Sec. 2 at the time of such damage or injury.

The terms of this Agreement and the easements contained herein shall run with the land and be binding on and for the benefit of the heirs and assigns of the GRANTOR and the GRANTEE.

The TOWN shall redesign, reconstruct, enlarge and extend the municipal parking lot situated between Chestnut Street and Lincoln Street known as the Chestnut Street Parking Lot.

In the event the GRANTEE fails to upgrade and expand or abandons the Chestnut Street Parking Lot, all the easements granted under this agreement shall revert back to their owners. Such reversion shall occur by the GRANTOR giving written notice to the GRANTEE that it has failed to upgrade and expand or has abandoned the Chestnut Street Parking Lot and the GRANTEE not responding to the GRANTOR in writing, to the return address set forth in the notice, within 30 days denying it has failed to upgrade or expand or has abandoned the Chestnut Street Parking Lot. An affidavit by the GRANTOR recorded at the Norfolk Registry of Deeds setting forth the facts substantiating cessation of use and the failure of the TOWN to respond in writing within thirty (30) days denying cessation of

use, shall constitute evidence of such termination and evidence of the automatic reversion to each party to this agreement.

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Throughout the term of these easements, the TOWN shall have certain obligations to maintain the Chestnut Street Parking Lot, including but not limited to, (a) installing, upgrading, enhancing and maintaining in a good and healthy condition the landscaping in the Chestnut Street Parking Lot, (b) snow removal, (c) sweeping, (d) lighting, (e) maintaining the asphalt, (f) lining and striping, (g) signage, and (h) otherwise maintaining the Chestnut Street Parking Lot in a first-class condition.

In the event the TOWN fails to maintain the Chestnut Street Parking Lot, the GRANTOR shall give written notice to the TOWN. The TOWN shall respond in writing to the GRANTOR within thirty (30) days setting forth the allegations it agrees to and disagrees with, and setting forth a plan to repair and maintain the parking lot, such plan shall include dates for completion of the work. Failure to respond or to complete the work in accordance with the schedule shall entitle the GRANTOR to bring a civil action against the TOWN seeking remedies at law or in equity.

In the event the TOWN, after 30 days written notice from the GRANTOR, fails to make necessary repairs to the easement areas granted to the TOWN by the GRANTOR, the GRANTOR may make necessary and reasonable repairs to said easement areas and the TOWN shall reimburse the GRANTOR the reasonable costs for such repairs, up to \$1,000 per occurrence, which maximum amount will be increased in the future by application of the so-called "cost of living index."

Any notice to the GRANTEE required under the provisions of this deed shall be done by mailing, certified mail, return receipt requested, or hand delivering such notice as follows: Town of Needham, Town Administrator, Town Hall, 1471 Highland Avenue, Needham, MA 02492.

TO HAVE AND TO HOLD said easements with all the privileges and appurtenances thereof unto the GRANTEE, its successors and assigns forever.

WITNESS my hand and seal this 22 day of MAY, 1999.

**SIMON II LIMITED ASSOCIATES PARTNERSHIP
GRANTOR**

Benjamin Gilfix
BENJAMIN GILFIX, PARTNER

Stanley Simon
STANLEY SIMON, PARTNER

Gary B. Simon
GARY B. SIMON, PARTNER

SIGNED SEALED AND DELIVERED IN THE PRESENCE OF:

Allard Cicconi
Witness

NOT
GRANTOR'S ACKNOWLEDGMENT

OFFICIAL
COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK, SS.

OFFICIAL
COPY

May 20, 1999

Then personally appeared before me the above named Gary B. Simon and acknowledged the foregoing instrument to be his free act and deed as General Partner of Simon II Associates Limited Partnership and the free act and deed of Simon II Associates Limited Partnership, before me.

Ann E. Centrella
Notary Public

Ann E. Centrella
(printed name)

My commission expires on 10-12-2001

D-2

2/

124104

99 AUG 20 AM 10:46

RECEIVED AND RECORDED
NORFOLK COUNTY
REGISTRY OF DEEDS
DEDHAM, MA

CERTIFY
Barry T. Hannon
BARRY T. HANNON, REGISTER

BK 13679PG227

N O T

N O T

The terms of this Agreement and the easements contained herein shall run with the land and be binding on and for the benefit of the heirs and assigns of the GRANTOR and the GRANTEE.

TO HAVE AND TO HOLD said easements with all the privileges and appurtenances thereof unto the GRANTEE, its successors and assigns forever.

WITNESS my hand and seal this 27th day of April, 1999.

TOWN OF NEEDHAM
BY ITS BOARD OF SELECTMEN

William M. Powers
120 Days
John H. Cravens
Paul Warren

SIGNED SEALED AND DELIVERED IN THE PRESENCE OF:

David H. [Signature]
Witness

GRANTOR'S ACKNOWLEDGMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK, SS.

April 27, 1999

Then personally appeared before me the above named William M. Powers, a member of the Board of Selectmen of the Town of Needham, and acknowledged the foregoing instrument to be his free act and deed, before me.

Theodora K. Eaton
Notary Public

Theodora K. Eaton
(printed name)
My commission expires on _____

MY COMMISSION EXPIRES MAY 31, 2002

CERTIFY



BARRY T. HANNON, REGISTER

N O T

EASEMENT DEED

N O T

KNOW ALL BY THESE PRESENTS: that ^{A N}William Barrett^{A N} of Dover, Massachusetts ("GRANTOR") for ten dollars (\$10.00) and other good and valuable consideration, the receipt of which is mutually agreed grants to the Town of Needham, a municipal corporation organized under the laws of the Commonwealth of Massachusetts ("GRANTEE"), whose address is Town Hall, 1471 Highland Avenue, Needham, MA 02492, the following easements:

1. A permanent easement on and over land lying between the building known as 992 Great Plain Avenue and Chestnut Road, in the Town of Needham, County of Norfolk, Massachusetts, as shown as Easement A on a plan entitled, "Plan of Land Chestnut Street in Town of Needham (Norfolk County) Massachusetts, January 15, 1999 by the BSC Group, 425 Summer Street, Boston, Massachusetts 02210", for the purposes of preparing, constructing, operating, repairing and maintaining a municipal parking lot and pedestrian walkway. *See Plan 577 of 1999, Book 467.*

2. All right, title and interest the GRANTOR has in Chestnut Road to its use as a public or private way, except as provided hereunder, so long as the GRANTEE uses the way to for a public parking lot or a pedestrian walkway. Any such pedestrian walkway shall not interfere with pedestrian access to the GRANTOR'S property or with views, light, air to the GRANTOR'S property.

3. A temporary easement on and over land lying between the building known as 992 Great Plain Avenue and Chestnut Road, to allow the GRANTEE to grade and improve the area with asphalt and to install a brick walkway from Chestnut Road to the rear entrance and to restore to proper working condition the catch basin and/or drainage pipe located to the west side of the building known as 992 Great Plain Avenue. Said Temporary Easement is shown on said plan.

The GRANTOR reserves its rights to operate and maintain all underground utility easements that service the building known as 992 Great Plain Avenue and shall have the right to enter upon the easements granted hereunder to excavate, repair and replace such utilities, provided that it shall give at least 30 days written notice to the GRANTEE, except in the event of an emergency requiring immediate repair. Said work shall be done as expeditiously as possible. Upon completion of the replacement or repair, the GRANTOR shall return the condition of the property to the same condition that it was in prior to the damage caused by the condition that necessitates the replacement or repairs.

The building known as 992 Great Plain Avenue, Needham, is located on the lot of land on said plan and entitled "N/F William Barrett Map 47, Lot 64, Deed Book 6917 Page 402".

All work performed by the GRANTEE in the easement area shall be in good and workmanlike manner. In performing the work permitted hereunder, the GRANTEE

145208

99 OCT -5 PM 12:03

will not do any work that is inconsistent with the intent and purpose of this easement or which will create any nuisance, or commit any act or waste that will be harmful or which will interfere with the GRANTOR'S adjoining land and premises. A L

C O P Y

C O P Y

The GRANTOR agrees to hold the GRANTEE harmless and indemnify the GRANTEE and its successors and assigns and its employees, contractors, licensees and invitees from and against any and all claims, losses or damages for property damage or personal injury or liability, or either, resulting in any way by reason of the GRANTOR'S or his employees', contractors', agents', assigns', licensees' or invitees' own negligent activity or omission in the easement area. The GRANTEE agrees to hold the GRANTOR harmless and indemnify the GRANTOR and his heirs, successors and assigns and his employees, contractors, licensees and invitees from and against any and all claims, losses or damages for property damage or personal injury or liability, or either, resulting in any way by reason of the GRANTEE'S or its employees', contractors', agents', assigns', licensees' or invitees' or negligent activity or omissions in the easement area up to the limit of one hundred thousand dollars (\$100,000) per claim or for such different amount as the GRANTEE may be liable by the provisions of M.G.L.A., c. 258, Sec. 2 at the time of such damage or injury.

The terms of this Agreement and the easements contained herein shall run with the land and be binding on and for the benefit of the heirs and assigns of the GRANTOR and the GRANTEE.

In the event the GRANTEE fails to upgrade and expand or abandons the Chestnut Street Parking Lot, all the easements granted under this agreement shall revert back to their owners. Such reversion shall occur by the GRANTOR giving written notice to the GRANTEE that it has failed to upgrade and expand or has abandoned the Chestnut Street Parking Lot and the GRANTEE not responding to the GRANTOR in writing, to the return address set forth in the notice, within 30 days denying it has failed to upgrade or expand or has abandoned the Chestnut Street Parking Lot. An affidavit by the GRANTOR recorded at the Norfolk Registry of Deeds setting forth the facts substantiating cessation of use and the failure of the TOWN to respond in writing within thirty (30) days denying cessation of use, shall constitute evidence of such termination and evidence of the automatic reversion to each party to this agreement. The GRANTEE may record an affidavit at the Norfolk Registry of Deeds denying said cessation, which shall constitute evidence of non-termination of use and non-reversion of the grant of easements.

In the event that the GRANTEE, after 30 days notice from the GRANTOR, fails to make necessary improvements and installations to the TEMPORARY EASEMENT or fails make necessary repairs to the PERMANENT EASEMENT, the GRANTOR may make necessary and reasonable improvements and installations to the TEMPORARY EASEMENT and necessary repairs to the PERMANENT EASEMENT area, respectively, and the GRANTEE shall reimburse the GRANTOR the reasonable costs for such repairs,

up to \$1,000 per occurrence, which maximum amount will be increased in the future by application of the so-called "cost of living index."

Any notice to the GRANTEE required under the provisions of this deed shall be done by mailing, certified mail, return receipt requested, or hand delivering such notice as follows: Town of Needham, Town Administrator, Town Hall, 1471 Highland Avenue, Needham, MA 02492.

TO HAVE AND TO HOLD said easements with all the privileges and appurtenances thereof unto the GRANTEE, its successors and assigns forever.

WITNESS my hand and seal this 27th day of April, 1999.

William Barrett
WILLIAM BARRETT - GRANTOR

SIGNED SEALED AND DELIVERED IN THE PRESENCE OF:

[Signature]
Witness

GRANTOR'S ACKNOWLEDGMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK, SS.

April 27, 1999

Then personally appeared before me the above named WILLIAM BARRETT and acknowledged the foregoing instrument to be his free act and deed, before me.

Theodora K. Eaton
Notary Public
Theodora K. Eaton
(printed name)
My commission expires on _____

MY COMMISSION EXPIRES MAY 31, 2002

RECEIVED AND RECORDED
NORFOLK COUNTY
REGISTRY OF DEEDS
NEEDHAM, MA

CERTIFY

Barry T. Hannon

BARRY T. HANNON, REGISTER

N O T EASEMENT DEED N O T

KNOW ALL BY THESE PRESENTS: that the Town of Needham, a municipal corporation organized under the laws of the Commonwealth of Massachusetts, whose address is Town Hall, 1471 Highland Avenue, Needham, MA 02492, ("GRANTOR") for ten dollars (\$10.00) and other good and valuable consideration, the receipt of which is mutually agreed, grants to William Barrett whose address is 10 Tower Road, Dover, Massachusetts ("GRANTEE"), the following easements:

A permanent easement to use the driveways and motor vehicle passageways within the Chestnut Street Municipal Parking Lot as shown on a plan attached hereto marked "A" and entitled "Reconstruction Of Chestnut Street Municipal Parking Lot in Needham Massachusetts (Norfolk County) Construction Plan January 15, 1999" by the BSC Group, 425 Summer Street, Boston Massachusetts 02492, and as the said parking lot may be re configured from time to time by the Board of Selectmen, for the passage of motor vehicles to and from the rear of the building known as 992 Great Plain Avenue and the public ways known as Lincoln Street and Chestnut Street, in the Town of Needham, County of Norfolk, Massachusetts. Motor vehicles shall include but not be limited to private passenger motor vehicles, delivery trucks and trash removal trucks.

In the event the easements, granted by William Barrett to the Town of Needham in another easement deed of even date and recorded herewith, revert back to William Barrett, then this easement shall terminate and expire.

The building known as 992 Great Plain Avenue, Needham, is located on the lot of land on said plan and entitled "N/F William Barrett Map 47, Lot 64, Deed Book 6917 Page 402".

The GRANTOR agrees to hold the GRANTEE harmless and indemnify the GRANTEE and its successors and assigns and its employees, contractors, licensees and invitees from and against any and all claims, losses or damages for property damage or personal injury or liability, or either, resulting in any way by reason of the GRANTOR'S or his employees', contractors', agents', assigns', licensees' or invitees' own negligent activity or omission in the easement area, up to the limit of one hundred thousand dollars (\$100,000) per claim or for such different amount as the GRANTOR may be liable by the provisions of M.G.L.A., c. 258, Sec. 2 at the time of such damage or injury. The GRANTEE agrees to hold the GRANTOR harmless and indemnify the GRANTOR and his heirs, successors and assigns and his employees, contractors, licensees and invitees from and against any and all claims, losses or damages from all claims, loses or damage for property damage or personal injury or liability, or either, resulting in any way by reason of the GRANTEE'S or its employees', contractors', agents', assigns', licensees' or invitees' or negligent activity or in the easement area .

145210

99 OCT -5 PM 12:03

The terms of this Agreement and the easements contained herein shall run with the land and be binding on and for the benefit of the heirs and assigns of the GRANTOR and the GRANTEE. A L O F F I C I A L C O P Y

TO HAVE AND TO HOLD said easements with all the privileges and appurtenances thereof unto the GRANTEE, its successors and assigns forever.

WITNESS my hand and seal this 27th day of April, 1999.

TOWN OF NEEDHAM
BY ITS BOARD OF SELECTMEN

W. M. Powers
Ted Ames
Tim Phelan
John H. Eggenell
Geoff Warren

SIGNED SEALED AND DELIVERED IN THE PRESENCE OF:

David S. Volch
Witness

GRANTOR'S ACKNOWLEDGMENT

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF NORFOLK, SS.

April 27, 1999

Then personally appeared before me the above named William M. Powers, a member of the Board of Selectmen of the Town of Needham, and acknowledged the foregoing instrument to be his free act and deed, before me.

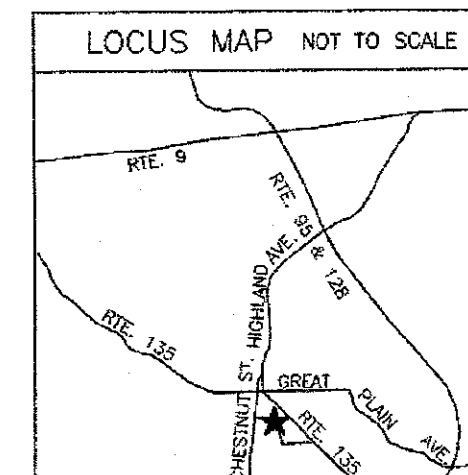
Theodora K. Eaton
Notary Public
Theodora K. Eaton
(printed name)
My commission expires on _____

MY COMMISSION EXPIRES MAY 31, 2002

[illegible][illegible]

"A"

LINE	DIRECTION	DISTANCE
E-1	S83°50'52"E	96.08'
E-2	S85°59'01"E	52.58'
E-3	S89°40'07"E	81.61'
E-4	N00°19'53"E	47.30'
E-5	S89°40'07"E	6.20'
E-6	N00°19'53"E	8.80'
E-7	S89°40'07"E	41.90'
E-8	S02°38'56"W	143.14'
E-9	S79°27'57"E	156.52'
E-10	S10°32'03"W	162.40'
E-11	N79°28'42"W	148.88'
E-12	N10°31'18"E	12.21'
E-13	N83°50'52"W	180.60'
E-14	N06°09'08"E	12.00'
E-15	S82°75'56"W	50.00'
E-16	N83°50'52"W	28.48'
E-17	S41°42'17"W	25.81'
E-18	N83°50'52"W	5.00'
E-19	N06°09'08"E	81.00'
E-20	S83°50'52"E	66.98'
E-21	N06°16'04"E	59.99'
E-22	N83°50'52"W	12.15'
E-23	N08°09'52"E	88.03'
E-24	S83°50'08"E	8.50'
E-25	N08°09'52"E	10.00'
E-26	N83°50'08"W	61.41'
E-27	N06°09'08"E	32.95'



Norfolk Registry of Deeds
Dedham, Mass.
Received Aug. 20, 1999
With Deed
Simon & Associates, LTD. Partnership
to Town of Needham
Filed as No. 517 1999
Pl. Bk. 467
Attest: [Signature]
Register

FOR REGISTRY USE ONLY
THIS PLAN CONFORMS TO THE RULES AND
REGULATIONS OF THE REGISTRY OF DEEDS



Joseph D. Simon 1/15/99
PROFESSIONAL LAND SURVEYOR DATE

PLAN OF LAND
CHESTNUT STREET
IN
TOWN OF NEEDHAM
(NORFOLK COUNTY)
MASSACHUSETTS

JANUARY 15, 1999

NO.	DATE	DESC.
0	3/27/98	INITIAL ISSUE
1	7/29/98	SIDEWALK EASEMENT
2	1/15/99	EASEMENTS

OWNED BY:
TOWN OF NEEDHAM
1471 HIGHLAND AVENUE
NEEDHAM, MA
02192

BSC
The BSC Group

425 Summer Street
Boston, Massachusetts
02210
617 330 5300

© 1998 The BSC Group, Inc.

SCALE: 1" = 40'
0 5 10 20 METERS
0 20 40 60 FEET

PROJ. MGR.: J. SIMON
FIELD: R. JACOBucci / J. DOYLE
CALC./DESIGN: J. SIMON
DRAWN: J. SIMON
CHECK: E. DIXON
FILE: PRJ\2283710\SVY\22837ANR.DWG
DWG. NO: 3251
FILED: SHEET
JOB. NO: 2-2837.10
FF-20 1 OF 1

517-99

APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED:

PLANNING BOARD:
[Signature]
[Signature]

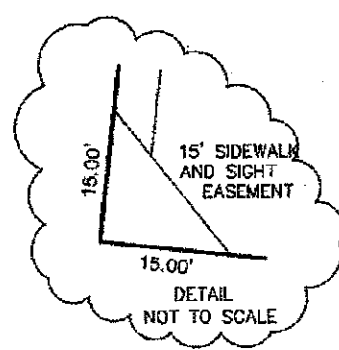
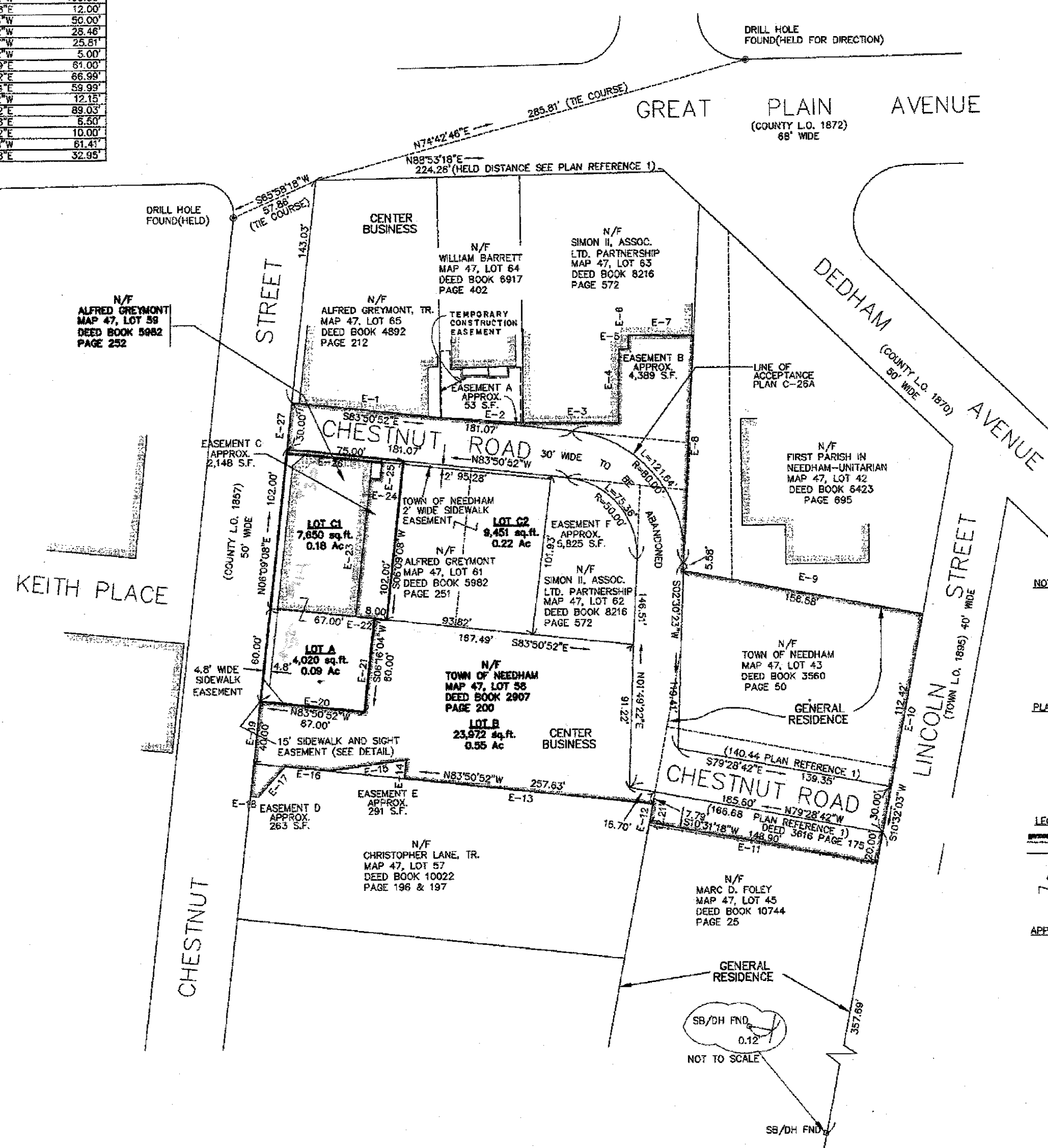
DATE APPROVED: April 15, 1999

DATE SIGNED: April 15, 1999

- NOTES:
- NO DETERMINATION AS TO COMPLIANCE WITH ZONING REQUIREMENTS HAS BEEN MADE OR INTENDED
 - LOT A AND LOT C1 IS TO BE COMBINED TO FORM ONE LOT
 - LOT C2 IS TO BE CONVEYED TO THE TOWN OF NEEDHAM AND COMBINED WITH LOT B
- PLAN REFERENCES:
- PLAN SHOWING SUBDIVISION OF LOT IN NEEDHAM, MASS. DATED JULY 1947, NORFOLK COUNTY REGISTRY OF DEEDS FILE NO. 812 OF 1947 BOOK 2704 PAGE 593.
 - PLAN OF LAND IN NEEDHAM, MASS. DATED JANUARY, 1993, NORFOLK COUNTY REGISTRY OF DEEDS FILE NO. 196 OF 1993 PLAN BOOK 3880 PAGE 25.

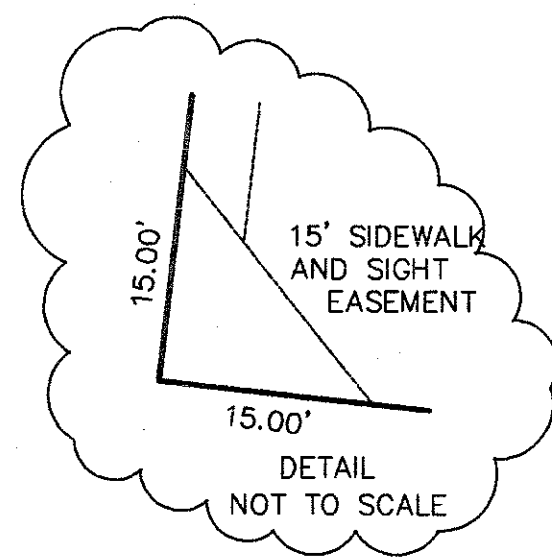
- LEGEND:
- EASEMENT LINE
 - PROPERTY LINE
 - SIDEWALK EASEMENT
 - STONE BOUND W/ DRILL HOLE
 - DRILL HOLE
 - FEED HOOK

APPLICANT: TOWN OF NEEDHAM



A.R. 47
45-62^R

PARKING EASEMENT		
LINE	DIRECTION	DISTANCE
E-1	S83°50'52"E	96.06'
E-2	S85°59'01"E	52.55'
E-3	S89°40'07"E	61.61'
E-4	N00°19'53"E	47.30'
E-5	S89°40'07"E	6.20'
E-6	N00°19'53"E	8.80'
E-7	S89°40'07"E	41.90'
E-8	S02°36'56"W	145.14'
E-9	S79°27'57"E	156.56'
E-10	S10°32'03"W	162.40'
E-11	N79°28'42"W	148.88'
E-12	N10°31'18"E	12.21'
E-13	N83°50'52"W	160.60'
E-14	N06°09'08"E	12.00'
E-15	S82°15'56"W	50.00'
E-16	N83°50'52"W	28.46'
E-17	S41°42'37"W	25.81'
E-18	N83°50'52"W	5.00'
E-19	N06°14'19"E	61.00'
E-20	S83°50'52"E	66.99'
E-21	N06°16'04"E	59.99'
E-22	N83°50'52"W	12.15'
E-23	N06°09'52"E	89.03'
E-24	S83°50'08"E	6.50'
E-25	N06°09'52"E	10.00'
E-26	N83°50'08"W	61.41'
E-27	N06°09'08"E	32.95'



KEITH PLACE

CHESTNUT

DRILL HOLE FOUND (HELD)

STREET

CHESTNUT ROAD

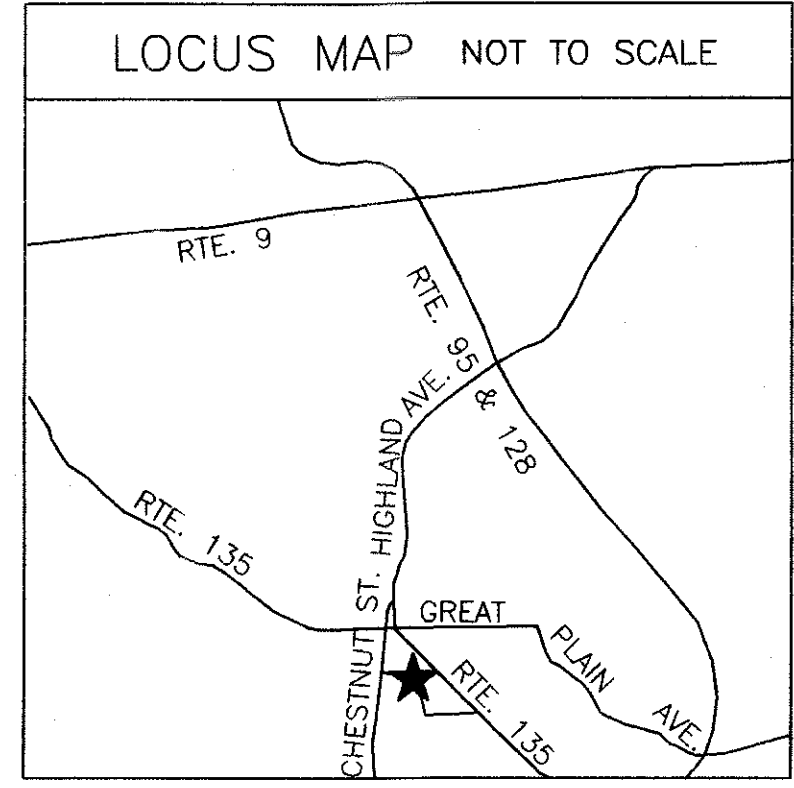
GREAT PLAIN AVENUE

DEDHAM AVENUE

LINCOLN STREET

DRILL HOLE FOUND (HELD FOR DIRECTION)

MERIDIAN OF 1872 GREAT PLAIN AVENUE LAYOUT



APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED:

PLANNING BOARD:

DATE APPROVED: _____

DATE SIGNED: _____

NOTES:

NO DETERMINATION AS TO COMPLIANCE WITH ZONING REQUIREMENTS HAS BEEN MADE OR INTENDED

LOT A AND LOT C1 IS TO BE COMBINED TO FORM ONE LOT

LOT C2 IS TO BE CONVEYED TO THE TOWN OF NEEDHAM AND COMBINED WITH LOT B

PLAN REFERENCES:

1. PLAN SHOWING SUBDIVISION OF LOT IN NEEDHAM, MASS. DATED JULY 1947, NORFOLK COUNTY REGISTRY OF DEEDS FILE NO. 812 OF 1947 BOOK 2704 PAGE 593.
2. PLAN OF LAND IN NEEDHAM, MASS. DATED JANUARY, 1993, NORFOLK COUNTY REGISTRY OF DEEDS FILE NO. 196 OF 1993 PLAN BOOK 3880 PAGE 25.

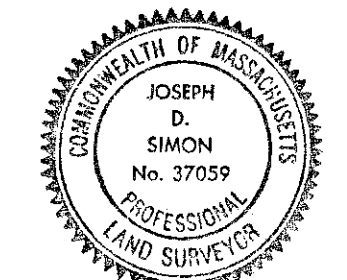
LEGEND:

- EASEMENT LINE
- PROPERTY LINE
- SIDEWALK EASEMENT
- STONE BOUND W/ DRILL HOLE
- DRILL HOLE
- FEE HOOK

APPLICANT: TOWN OF NEEDHAM

FOR REGISTRY USE ONLY

THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS



PROFESSIONAL LAND SURVEYOR DATE 1/15/99

PLAN OF LAND
CHESTNUT STREET

IN
TOWN OF NEEDHAM
(NORFOLK COUNTY)
MASSACHUSETTS

JANUARY 15, 1999

REVISIONS:

NO.	DATE	DESC.
0	3/27/98	INITIAL ISSUE
1	7/29/98	SIDEWALK EASEMENT
2	1/15/99	EASEMENTS

OWNED BY:

TOWN OF NEEDHAM
1471 HIGHLAND AVENUE
NEEDHAM, MA
02192

BSC
The BSC Group

425 Summer Street
Boston, Massachusetts
02210

617 330 5300

© 1998 The BSC Group, Inc.

SCALE: 1" = 40'
0 5 10 20 METERS
0 20 40 80 FEET

PROJ. MGR.: J. SIMON

FIELD: R. JACOBUCCI/ J. DOYLE

CALC./DESIGN: J. SIMON

DRAWN: J. SIMON

CHECK: E. DIXON

FILE: PRJ\2283710\SV\22837ANR.DWG

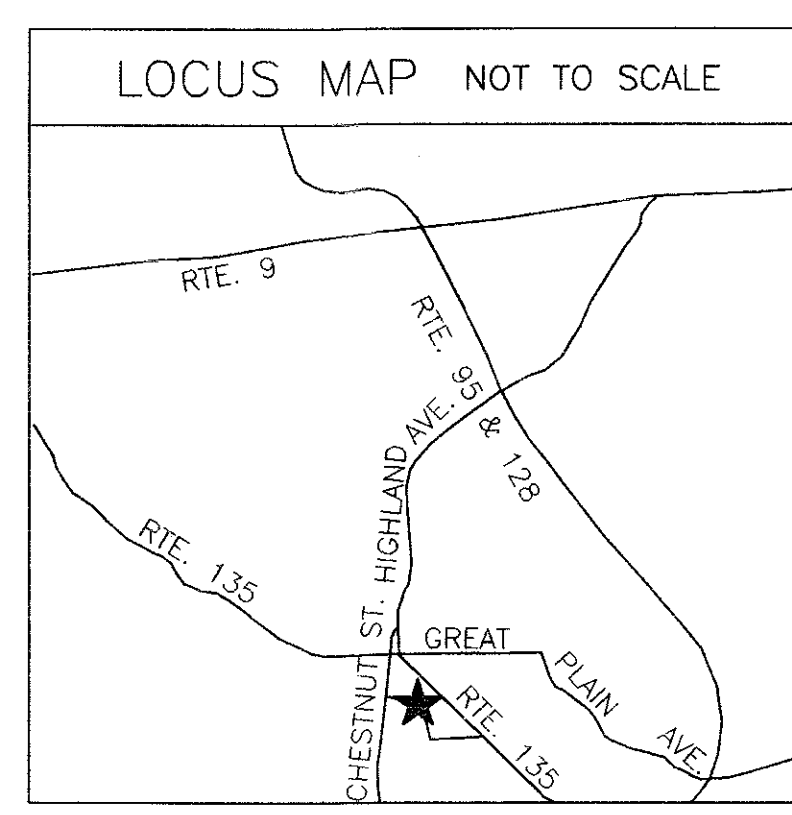
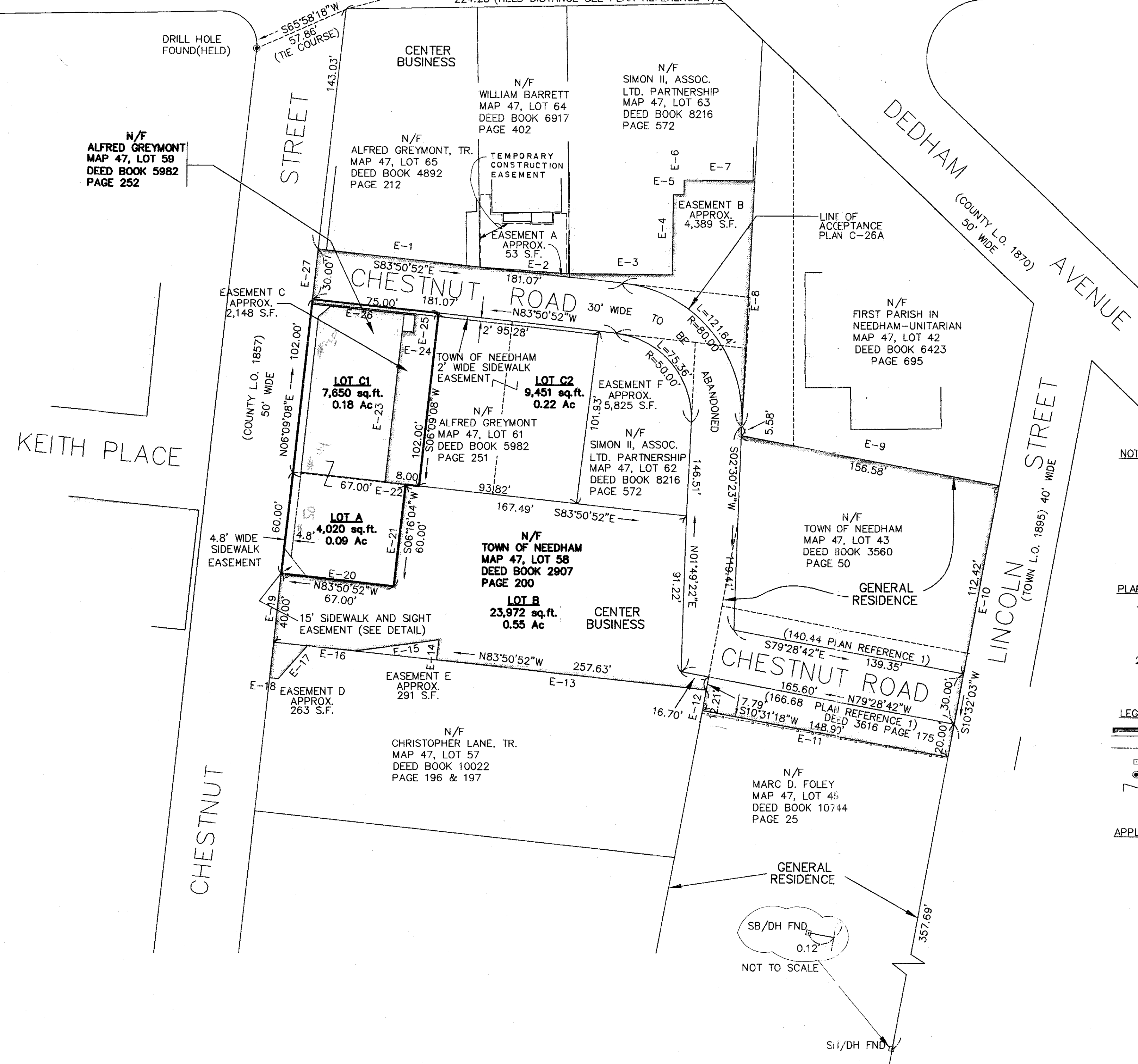
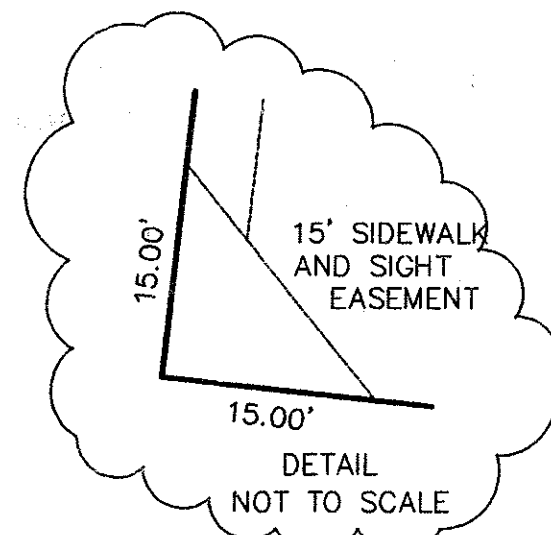
DWG. NO: 3251

FILED: FF-20

SHEET 1 OF 1

1:2283710 SV\22837ANR.DWG [Tue Mar 16 10:20:19 1999 HP600] [Bord] 8.03.1998 by The BSC Group

LINE	DIRECTION	DISTANCE
E-1	S83°50'52"E	96.06'
E-2	S85°59'01"E	52.55'
E-3	S89°40'07"E	61.61'
E-4	N00°19'53"E	47.30'
E-5	S89°40'07"E	6.20'
E-6	N00°19'53"E	8.80'
E-7	S89°40'07"E	41.90'
E-8	S02°36'56"W	145.14'
E-9	S79°27'57"E	156.56'
E-10	S10°32'03"W	162.40'
E-11	N79°28'42"W	148.88'
E-12	N10°31'18"E	12.21'
E-13	N83°50'52"W	160.60'
E-14	N06°09'08"E	12.00'
E-15	S82°15'56"W	50.00'
E-16	N83°50'52"W	28.46'
E-17	S41°42'37"W	25.81'
E-18	N83°50'52"W	5.00'
E-19	N06°14'19"E	61.00'
E-20	S83°50'52"E	66.99'
E-21	N06°16'04"E	59.99'
E-22	N83°50'52"W	12.15'
E-23	N06°09'52"E	89.03'
E-24	S83°50'08"E	6.50'
E-25	N06°09'52"E	10.00'
E-26	N83°50'08"W	61.41'
E-27	N06°09'08"E	32.95'



MERIDIAN OF 1872 GREAT PLAIN AVENUE LAYOUT

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED:

PLANNING BOARD:

DATE APPROVED: April 15, 1999

DATE SIGNED: April 15, 1999

NOTES:
 NO DETERMINATION AS TO COMPLIANCE WITH ZONING REQUIREMENTS HAS BEEN MADE OR INTENDED
 LOT A AND LOT C1 IS TO BE COMBINED TO FORM ONE LOT
 LOT C2 IS TO BE CONVEYED TO THE TOWN OF NEEDHAM AND COMBINED WITH LOT B

PLAN REFERENCES:
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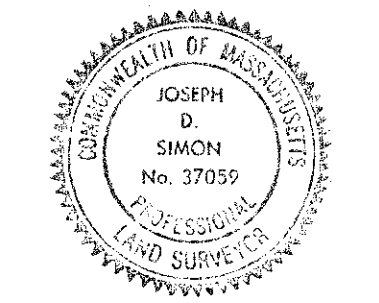
LEGEND:
 EASEMENT LINE
 PROPERTY LINE
 SIDEWALK EASEMENT
 STONE BOUND W/ DRILL HOLE
 DRILL HOLE
 FEE HOOK

APPLICANT: TOWN OF NEEDHAM

Proj. Plan
 1999-517
 45-62R

FOR REGISTRY USE ONLY

THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS



Joseph B. Simon 1/15/99
 PROFESSIONAL LAND SURVEYOR DATE

PLAN OF LAND
 CHESTNUT STREET
 IN
 TOWN OF NEEDHAM
 (NORFOLK COUNTY)
 MASSACHUSETTS

JANUARY 15, 1999

NO.	DATE	DESC.
0	3/27/98	INITIAL ISSUE
1	7/29/98	SIDEWALK EASEMENT
2	1/15/99	EASEMENTS

OWNED BY:
 TOWN OF NEEDHAM
 1471 HIGHLAND AVENUE
 NEEDHAM, MA
 02192



425 Summer Street
 Boston, Massachusetts
 02210
 617 330 5300

© 1998 The BSC Group, Inc.

SCALE: 1" = 40'
 0 5 10 20 METERS
 0 20 40 80 FEET

PROJ. MGR.: J. SIMON
 FIELD: R. JACOBUCCI/ J. DOYLE
 CALC./DESIGN: J. SIMON
 DRAWN: J. SIMON
 CHECK: E. DIXON
 FILE: PRJ\2283710\SV\2283710.DWG
 DWG. NO: 3251 FILED: SHEET
 JOB. NO: 2-2837.10 FF-20 1 OF 1

45-62

DECISION AMENDMENT

February 1, 2022

(Original Decision dated November 12, 2008, Revised August 11, 2009, April 9, 2012, February 5, 2013, September 17, 2013, October 5, 2016 and Insignificant Change on July 12, 2021)

Major Project Site Plan Special Permit No. 98-6

Town of Needham

Existing Municipal Parking Lot on Chestnut and Lincoln Streets

DECISION of the Planning Board of the Town of Needham, Massachusetts, (hereinafter together with any entity succeeding the powers of said Planning Board referred to as the “Board”) on the petition of the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, (to be referred to hereinafter as the “Petitioner”), for property at the location of the Existing Municipal Parking Lot on Chestnut and Lincoln Streets, shown on Assessor’s Map No. 47 as Parcel 58 containing 1.74 acres in the Center Business and General Residence zoning districts.

This decision is in response to an application submitted to the Board on December 21, 2021, by the Petitioner for: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); and a Special Permit under Section 5.1.1.6, 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 Requirement).

The requested Major Project Site Plan Special Permit would, if granted, permit an amendment of Major Project Site Plan Special Permit No. 98-6 dated June 16, 1998, amended August 6, 2013, July 17, 2018, March 19, 2019 and June 4, 2019 and insignificant Change on July 12, 2021. These decisions concern the Town of Needham’s municipal parking lot located on Chestnut and Lincoln Streets.

The current permit does not, presently contemplate or authorize the use of parking spaces within the municipal parking lot for seasonal outdoor seating. The requested amendment would allow seasonal outdoor dining to occur within the Chestnut and Lincoln Street municipal parking lot, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert, on Tuesday, January 18, 2022 at 7:20 p.m. by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Adam Block, Martin Jacobs, Jeanne S. McKnight and Natasha Espada were present throughout the January 18, 2022 proceedings. The record of the proceedings and the submissions 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 applicant, dated December 21, 2021.
- Exhibit 2 - Letter to Planning Board Members from Attorney Christopher H. Heep, dated December 20, 2021.
- Exhibit 3 - Plan entitled “Plan of Land, Chestnut Street”, prepared by BSC Group, 425 Summer Street, Boston, MA, dated January 15, 1999, recorded in the Norfolk County Registry of Deeds as Plan No. 517 of 1999, Plan Book 467.
- Exhibit 4 - “Easement Deed,” Simon II Associates Limited Partnership grants to the Town of Needham, dated May 22, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 222.
- Exhibit 5 - “Easement Deed,” Town of Needham grants to Simon II Associates Limited Partnership, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 226.
- Exhibit 6 - “Easement Deed,” William Barrett grants to the Town of Needham, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13776, Page 555.
- Exhibit 7 - “Easement Deed,” Town of Needham grants to William Barrett, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13776, Page 559.
- Exhibit 8 - Plan entitled “As-Built Plan, Chestnut, Lincoln and School Street, Needham, MA”, prepared by Engineering Department, Department of Public Works, 500 Dedham Avenue, Needham, MA, dated May 29, 2014.
- Exhibit 9 - Plan entitled “Existing Conditions Site Plan, Public Facility & Parking Areas” prepared by Greenman-Pederson, Inc., 181 Ballardvale Street, Suite 202, Wilmington, MA01887, dated January 31, 2018.
- Exhibit 9 - Email from Bernie Segaloff, dated January 13, 2022.
- Exhibit 10 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated January 12, 2022; IDC to the Board from Tom Ryder dated January 13, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated January 5, 2022.

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 General Residence and Center Business Zoning Districts and is the location of the Existing Municipal Parking Lot on Chestnut and Lincoln Streets, shown on Assessor’s Map No. 47 as Parcel 58 containing 1.74 acres. The property is owned by the Petitioner.
- 1.2 The subject property is currently occupied by a municipal parking lot with a total of 195 parking spaces, pursuant to the approval of an Amendment to the Major Project Site Plan Special permit No. 98-6, dated June 16, 1998, amended August 6, 2013.

- 1.3 By Decision dated June 4, 2019, the Petitioner requested that the noted Condition be amended to allow for a total of 192 parking spaces at the completion of the Police and Fire Headquarters, with 3 parking spaces being allocated to the consolidated dumpsters. The request was granted.
- 1.4 By Insignificant Change dated July 12, 2021, the Petitioner was permitted to install two Electric Vehicle (EV) charging stations in the existing municipal parking lot.
- 1.5 Through several easements, as described in Exhibits 3-7, the Town was granted the right to use the parking spaces on several private parcels for municipal parking purposes. These parking spaces are included in the aforementioned total parking space counts comprising the municipal parking lot.
- 1.6 The Petitioner is proposing to amend the prior Decision to allow seasonal outdoor dining to occur within the Chestnut and Lincoln Street municipal parking lot, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate. The Petitioner notes that the total number of available spaces available in the municipal parking lot will be reduced to accommodate such seasonal outdoor seating.
- 1.7 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhoods inherent use.
- 1.8 The Board finds that all of its findings and conclusions contained in Major Project Site Plan Special Permit No. 98-6, dated June 16, 1998, amended August 6, 2013, July 17, 2018, March 19, 2019 and June 4, 2019 and insignificant Change on July 12, 2021, are applicable to this Amendment, except as specifically set forth in this Amendment.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); and a Special Permit under Section 5.1.1.6, 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 Requirement); subject to and with the benefit of the following Plan modifications, conditions and limitations.

CONDITIONS AND LIMITATIONS

- 2.1 Major Project Site Plan Special Permit No. 98-6, issued to the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, dated June 16, 1998, amended August 6, 2013, July 17, 2018, March 19, 2019 and June 4, 2019 and insignificant Change on July 12, 2021, is hereby incorporated by reference, and all plans, conditions, and limitations therein approved remain in full force and effect except as further modified by this decision.

- 2.2 Seasonal outdoor dining is hereby permitted within the Chestnut and Lincoln Street municipal parking lot, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board and (b) the restaurants wishing to provide such seasonal outdoor seating obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this decision, in full force and effect for the benefit of and enforceable by the Town of Needham. Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this decision with the Needham Town Clerk.

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

Witness our hands this 1st day of February, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

_____2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, for Property at the location of the Existing Municipal Parking Lot on Chestnut and Lincoln Streets, shown on Assessor's Map No. 47 as Parcel 58, 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
Christopher Heep, Attorney

Board of Health
Director, PWD
Design Review Board

DECISION AMENDMENT

February 1, 2022

(Original Decision dated November 12, 2008, Revised August 11, 2009, April 9, 2012, February 5, 2013, September 17, 2013, October 5, 2016 and Insignificant Change on July 12, 2021)

Major Project Site Plan Special Permit No. 98-6

Town of Needham

Existing Municipal Parking Lot on Chestnut and Lincoln Streets

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

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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 General Residence and Center Business Zoning Districts and is the location of the Existing Municipal Parking Lot on Chestnut and Lincoln Streets, shown on Assessor’s Map No. 47 as Parcel 58 containing 1.74 acres. The property is owned by the Petitioner.
- 1.2 The subject property is currently occupied by a municipal parking lot ~~with a total of 195 parking spaces~~, pursuant to the approval of an Amendment to the Major Project Site Plan Special permit No. 98-6, dated June 16, 1998, amended August 6, 2013. [Section 3.3 of](#)

said amendment states, in part, “A total of one hundred and ninety-five (195) parking spaces shall be provided at all times.”

- 1.3 By Decision dated June 4, 2019, the Petitioner requested that the noted Condition be amended to allow for a total of 192 parking spaces at the completion of the Police and Fire Headquarters, with 3 parking spaces being allocated to the consolidated dumpsters. The request was granted.
- 1.4 By Insignificant Change dated July 12, 2021, the Petitioner was permitted to install two Electric Vehicle (EV) charging stations in the existing municipal parking lot.
- 1.5 Through several easements, as described in Exhibits 3-74 and 6, the Town was granted the right to use the parking spaces on several private parcels for municipal parking purposes. These parking spaces are included in the aforementioned total parking space counts comprising the municipal parking lot.
- 1.6 The Petitioner is proposing to amend the prior Decision to allow seasonal outdoor dining to occur within the Chestnut and Lincoln Street municipal parking lot within the easement areas shown as (a) Easement B on Plan A recorded with Exhibit 4, and (b) Easement A on said Plan A, as also described in Exhibit 6, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board and (b) the restaurants obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate. The Petitioner notes that the total number of available spaces available in the municipal parking lot will be reduced to accommodate such seasonal outdoor seating.
- 1.7 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhoods inherent use.
- 1.8 The Board finds that all of its findings and conclusions contained in Major Project Site Plan Special Permit No. 98-6, dated June 16, 1998, amended August 6, 2013, July 17, 2018, March 19, 2019 and June 4, 2019 and insignificant Change on July 12, 2021, are applicable to this Amendment, except as specifically set forth in this Amendment.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law); and a Special Permit under Section 5.1.1.6, 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 Requirement); subject to and with the benefit of the following Plan modifications, conditions and limitations.

CONDITIONS AND LIMITATIONS

- 2.1 Major Project Site Plan Special Permit No. 98-6, issued to the Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, dated June 16, 1998, amended August 6,

2013, July 17, 2018, March 19, 2019 and June 4, 2019 and insignificant Change on July 12, 2021, is hereby incorporated by reference, and all plans, conditions, and limitations therein approved remain in full force and effect except as further modified by this decision.

- 2.2 Seasonal outdoor dining is hereby permitted within the Chestnut and Lincoln Street municipal parking lot within the easement areas shown as (a) Easement B on Plan A recorded with Exhibit 4, and (b) Easement A on said Plan A, as also described in Exhibit 6, provided that (a) such seasonal outdoor seating is conducted with the permission of the Select Board and (b) the restaurants wishing to provide such seasonal outdoor seating obtain the necessary permitting approval pursuant to Section 6.9.2 of the By-Law from either the Planning Board or the Select Board, as jurisdictionally appropriate.

The provisions of this Special Permit shall be binding upon every owner or owner of the lots and the executors, administrators, heirs, successors and assigns of such owners, and the obligations and restrictions herein set forth shall run with the land, as shown on the Plan, as modified by this decision, in full force and effect for the benefit of and enforceable by the Town of Needham. Any person aggrieved by this decision may appeal pursuant to the General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this decision with the Needham Town Clerk.

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

Witness our hands this 1st day of February, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

_____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:
My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Town of Needham, 1471 Highland Avenue, Needham, Massachusetts, for Property at the location of the Existing Municipal Parking Lot on Chestnut and Lincoln Streets, shown on Assessor's Map No. 47 as Parcel 58, 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
Christopher Heep, Attorney

Board of Health
Director, PWD
Design Review Board

**AMENDMENT TO DECISION
February 1, 2022**

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Sol Soul Family Foods LLC
974 Great Plain Avenue, Needham, MA 02492
Application No. 2006-04**

(Original Decision dated December 5, 2006, amended January 16, 2007, March 6, 2007
And transferred on April 11, 2016 and amended June 4, 2019)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Robert Craig, Manager of Sol Soul Family Foods LLC, d/b/a Hearth Pizzeria (hereinafter referred to as the Petitioner) for property located at 974 Great Plain Avenue, Needham, Massachusetts, 02492. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 63 containing .45 acres in the Center Business Zoning District and the Needham Center Overlay District, Sub-District A.

This decision is in response to an application submitted to the Board on December 23, 2021, by the Petitioner to amend the decision by the Board dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law), (2) a Special Amendment to Major Project Site Plan Review Special Permit No. 2006-04, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to permit 33 year-round outdoor dining seats by Hearth Pizzeria on private property abutting the municipal parking lot and within the maneuvering space of the private parking lot. The private parking lot (located behind the subject restaurant at 974 Great Plain Avenue) upon which the seating is to be located is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Tuesday, January 18, 2022 at 7:30 p.m. by Zoom Web ID Number 826-5899-3198. The hearing was continued to February 1, 2022 at 7:00 p.m. by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the January 18, 2022 and February 1, 2022 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.

EVIDENCE

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

Exhibit 1- Application for the Amendment to 2006-04 and application under Section 6.9 of the Zoning By-Law, dated December 23, 2021 and January 4, 2022 respectively.

- Exhibit 2 - 2 sheets prepared by Scott Melching Architect, page 1, showing “Photos of Exterior Seating,” dated December 9, 2021; page 2, showing “Exterior Seating Plan,” dated December 9, 2021.
- Exhibit 3 - Plan entitled “Plan of Land, Chestnut Street”, prepared by BSC Group, 425 Summer Street, Boston, MA, dated January 15, 1999, recorded in the Norfolk County Registry of Deeds as Plan No. 517 of 1999, Plan Book 467.
- Exhibit 4 “Easement Deed,” Simon II Associates Limited Partnership grants to the Town of Needham, dated May 22, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 222.
- Exhibit 5 - “Easement Deed,” Town of Needham grants to Simon II Associates Limited Partnership, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13679, Page 226.
- Exhibit 6 - “Easement Deed,” William Barrett grants to the Town of Needham, dated April 27, 1999, recorded in the Norfolk County Registry of Deeds, Book 13776, Page 555.
- Exhibit 7 - Email from Bernie Segaloff, dated January 13, 2022.
- Exhibit 8 - Inter-Departmental Communication (IDC) to the Board from Tara Gurge, Health Division, dated January 12, 2022; IDC to the Board from Tom Ryder dated January 13, 2022; IDC to the Board from Chief Dennis Condon, Fire Department, dated January 5, 2022; IDC to the Board from Chief John Schlittler, dated January 6, 2022.

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019 be amended to permit 33 year-round outdoor dining seats by Hearth Pizzeria on private property abutting the municipal parking lot and within the maneuvering space of the private parking lot.
- 1.2 The parking lot (located behind 974 Great Plain Avenue) is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes. The Town has independently sought an amendment to the permit on the Chestnut Street parking lot to allow for outdoor dining to occur on parking spaces previously dedicated to municipal parking.
- 1.3 The original permit for the restaurant at this location permitted sixty-four (64) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter.
- 1.4 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence to the requirements of Section 5.1.2 (number of parking spaces) Required Parking. Under the By-Law, the parking requirement for a restaurant is 1 parking space per 3 seats. Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority. 30% of 64 seats is 19.2 (rounded down to

19) seats. As the Petitioner is requesting 33 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. 19 seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 14 seats, which is a waiver of 5 additional spaces.

- 1.5 No change to the interior of the restaurant are proposed by this application.
- 1.6 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Business Center District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.7 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2006-4, Section 4.2; subject to the following plan modifications, conditions and limitations.

PLAN MODIFICATIONS

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

- 2.0 No Plan modifications are required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, are ratified and confirmed except as modified herein.

- 3.1 A total of 33 outdoor dining seats as shown in the plans as detailed in Exhibit 2 of the Decision are hereby approved for use from April 1 through November 30 of each year.
- 3.2 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.3 Outdoor dining is only permitted as long as the safety measures to separate vehicles and people dining can be maintained. During the Covid-19 relief measures that permitted outdoor dining, this has consisted of “Jersey barriers” as provided by the Town. If said barriers are no longer available, the Petitioner shall return to the Planning Board to request some alternate barrier, at which time the Board will seek comment from public safety and DPW departments.
- 3.4 Exercise of the rights under this permit are subject to approval by the Select Board as the holder of the parking lot easement at the affected property. See Exhibits 3-5 above.
- 3.5 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 Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.6 No other changes were requested nor are permitted through this amendment.

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

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

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

Witness our hands this 1st day of February, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

_____2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Robert Craig, Manager of Sol Soul Family Foods LLC, d/b/a Hearth Pizzeria, for Property located at 974 Great Plain Avenue, 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
Ivan Millan Pulecio, Chef, Co-Owner

Board of Health
Director, PWD
Design Review Board
Robert Craig, Sol Soul Foods LLC

**AMENDMENT TO DECISION
February 1, 2022**

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Sol Soul Family Foods LLC
974 Great Plain Avenue, Needham, MA 02492
Application No. 2006-04**

(Original Decision dated December 5, 2006, amended January 16, 2007, March 6, 2007
And transferred on April 11, 2016 and amended June 4, 2019)

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Robert Craig, Manager of Sol Soul Family Foods LLC, d/b/a Hearth Pizzeria (hereinafter referred to as the Petitioner) for property located at 974 Great Plain Avenue, Needham, Massachusetts, 02492. Said property is shown on Needham Town Assessors Plan, No. 47 as Parcel 63 containing .45 acres in the Center Business Zoning District and the Needham Center Overlay District, Sub-District A.

This decision is in response to an application submitted to the Board on December 23, 2021, by the Petitioner to amend the decision by the Board dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019. The Petitioner seeks: (1) a Major Project Site Plan Review Special Permit Amendment under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law), (2) a Special Amendment to Major Project Site Plan Review Special Permit No. 2006-04, Section 4.2; and (3) a Special Permit Amendment under Sections 5.1.1.5 and 5.1.1.6, to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the By-Law (required parking and parking plan and design requirements, respectively).

The requested Major Project Site Plan Review Special Permit Amendment would, if granted, amend the Decision to permit 33 year-round outdoor dining seats by Hearth Pizzeria on private property abutting the municipal parking lot and within the maneuvering space of the private parking lot. The private parking lot (located behind the subject restaurant at 974 Great Plain Avenue) upon which the seating is to be located is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order by the Chairperson, Paul S. Alpert on Tuesday, January 18, 2022 at 7:30 p.m. by Zoom Web ID Number 826-5899-3198. The hearing was continued to February 1, 2022 at 7:00 p.m. by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Jeanne S. McKnight, Martin Jacobs, Adam Block and Natasha Espada were present throughout the January 18, 2022 and February 1, 2022 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.

EVIDENCE

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

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FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, were ratified and confirmed except as follows:

- 1.1 The Petitioner is requesting that Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019 be amended to permit 33 year-round outdoor dining seats by Hearth Pizzeria on private property abutting the municipal parking lot (within the easement area shown as Easement B on Plan A recorded with Exhibit 4) and within the maneuvering space of the private parking lot.
- 1.2 The parking lot (located behind 974 Great Plain Avenue) is the subject of an easement granted to the Town to permit parking on the private lot for municipal purposes. The Town has independently sought an amendment to the permit on the Chestnut Street parking lot to allow for outdoor dining to occur on parking spaces previously dedicated to municipal parking.
- 1.3 The original permit for the restaurant at this location permitted sixty-four (64) seat full-service restaurant serving meals for consumption on the premises and at tables with service provided by waitress or waiter.
- 1.4 The Petitioner has requested a Special Permit pursuant to Section 5.1.1.6 of the By-Law to waive strict adherence to the requirements of Section 5.1.2 (number of parking spaces) Required Parking. Under the By-Law, the parking requirement for a restaurant is 1 parking space per 3 seats. Section 6.9 of the Zoning By-Law permits up to 30% of the approved indoor seating to be utilized outdoors without authorization from the Special Permit Granting Authority. 30% of 64 seats is 19.2 (rounded down to

19) seats. As the Petitioner is requesting 33 outdoor seats, the Petitioner is requesting more than 30% of the approved indoor seats and is therefore requesting approval for such, as allowed by Section 6.9, as well as an additional parking waiver under Section 5.1.1.6. 19 seats are permitted through Section 6.9; therefore, the Petitioner is requesting a parking waiver with respect to the remaining 14 seats, which is a waiver of 5 additional spaces.

- 1.5 No changes to the interior of the restaurant are proposed by this application.
- 1.6 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted within the Business Center District provided the Board finds that the proposed development will be in compliance with the goals and objectives of the Master Plan, the Town of Needham Design Guidelines for the Business Districts, and the provisions of the By-Law. On the basis of the above findings and conclusions, the Board finds the proposed Plan, as conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.
- 1.7 Under Section 5.1.1.6 of the By-Law, a Special Permit to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 of the By-Law (Off-Street Parking Requirements) may be granted provided the Board finds that owing to special circumstances, the particular use, structure or lot does not warrant the application of certain design requirements, but that a reduction in the number of spaces and certain design requirements is warranted. On the basis of the above findings and conclusions, the Board finds that there are special circumstances for a reduction in the number of required parking spaces and design requirements, as conditioned and limited herein, which will also be consistent with the intent of the By-Law and which will not increase the detriment to the Town's and neighborhood's inherent use.

DECISION

THEREFORE, the Board voted 5-0 to GRANT: (1) an amendment to a Major Site Plan Review Special Permit issued by the Needham Planning Board on December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, under Section 7.4 of the Needham Zoning By-Law and Special Permit 2006-4, Section 4.2; subject to the following plan modifications, conditions and limitations.

PLAN MODIFICATIONS

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

- 2.0 No Plan modifications are required.

CONDITIONS AND LIMITATIONS

The conditions and limitations contained in Major Project Site Plan Special Permit No. 2006-04, dated December 5, 2006, amended January 16, 2007, March 6, 2007, and transferred on April 11, 2016 and amended June 4, 2019, are ratified and confirmed except as modified herein.

- 3.1 A total of 33 outdoor dining seats as shown in the plans as detailed in Exhibit 2 of the Decision are hereby approved for use from April 1 through November 30 of each year, within the easement area shown as Easement B on Plan A recorded with Exhibit 4.
- 3.2 The outdoor dining area shall be kept clear of trash and food scraps that might attract rodents.
- 3.3 Outdoor dining is only permitted as long as the safety measures to separate vehicles and people dining can be maintained. During the Covid-19 relief measures that permitted outdoor dining, this has consisted of “Jersey barriers” as provided by the Town. If said barriers are no longer available, the Petitioner shall return to the Planning Board to request some alternate barrier, at which time the Board will seek comment from public safety and DPW departments.
- 3.4 Exercise of the rights under this permit are subject to approval by the Select Board as the holder of the parking lot easement at the affected property. See Exhibits 3-5 above.
- 3.5 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 Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.6 No other changes were requested nor are permitted through this amendment.

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

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

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

Witness our hands this 1st day of February, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Natasha Espada

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public name:

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Robert Craig, Manager of Sol Soul Family Foods LLC, d/b/a Hearth Pizzeria, for Property located at 974 Great Plain Avenue, 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
Ivan Millan Pulecio, Chef, Co-Owner

Board of Health
Director, PWD
Design Review Board
Robert Craig, Sol Soul Foods LLC

FRIEZE CRAMER ROSEN & HUBER LLP
C O U N S E L L O R S A T L A W

60 WALNUT STREET, WELLESLEY, MASSACHUSETTS 02481
781-943-4000 • FAX 781-943-4040

EVANS HUBER
781-943-4043
EH@128LAW.COM

January 25, 2022

Members of the
Needham Planning Board

And

Lee Newman
Director of Planning and Community Development
Public Services Administration Building
500 Dedham Ave
Needham, MA 02492

Re: 100 West Street, Needham

Dear Planning Board Members and Ms. Newman:

I am writing on behalf of Welltower, Inc. the owner of the property at 100-110 West street, as well as Balfour Senior Living, who will be the new operator of the facility there. As I have previously advised some of you informally, LCB Senior Living, LLC is no longer involved in this project.

Welltower and Balfour are proposing, and will be seeking the Board's approval of (in the form of an amendment to the existing Special Permit), certain changes to the previously approved plans. The most substantial of these changes will be a shift from three programs (Independent Living, Assisted Living, and Memory Care) to two (Assisted Living and Memory Care). Because assisted living and memory care units are not subject to affordable housing requirements, this will also mean that the project will no longer include a percentage of IL units as affordable housing.

There are a number of reasons for this proposed change, including space and layout constraints, the ability to provide a superior level of assisted living by having two programs at the site rather than three, the quality of the Balfour units and programs which facilitate dignified "aging in place", trends towards larger AL programs, and other factors. We look forward to discussing this with you in greater detail.

Needham Planning Board Members
Lee Newman
January 25, 2022
Page 2

The footprint of the building will not be changing. The layout of the fourth-floor units will be changing somewhat but will remain within the previously-approved fourth floor footprint. We anticipate that the on-site parking supply will meet bylaw requirements as to number of spaces, without the need for design and layout waivers other than those previously granted.

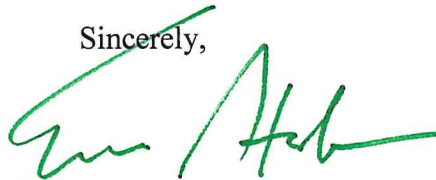
Welltower is bringing on board the HYM Investment Group as development manager, and New Ecology as a sustainability consultant, and is retaining the same team of professionals that worked on the prior project: The Architectural Team (TAT); Hawk Design (Landscaping); Kelly Engineering Group (Civil Engineering); and McMahon & Associates (Transportation and Traffic).

TAT has prepared a set of elevations, renderings, and floor plans showing the proposed new plan and comparing them to the previously approved plans. Because of the size of the file, TAT will be uploading them to the town's sharefile, today, separately from this letter.

Before submitting a formal application for amendment to the Special Permit, we have asked for the opportunity to present these plans to you informally, to introduce you to Balfour and HYM, and to seek your feedback. We look forward to discussing this with you at the Board's February 1, 2022 meeting.

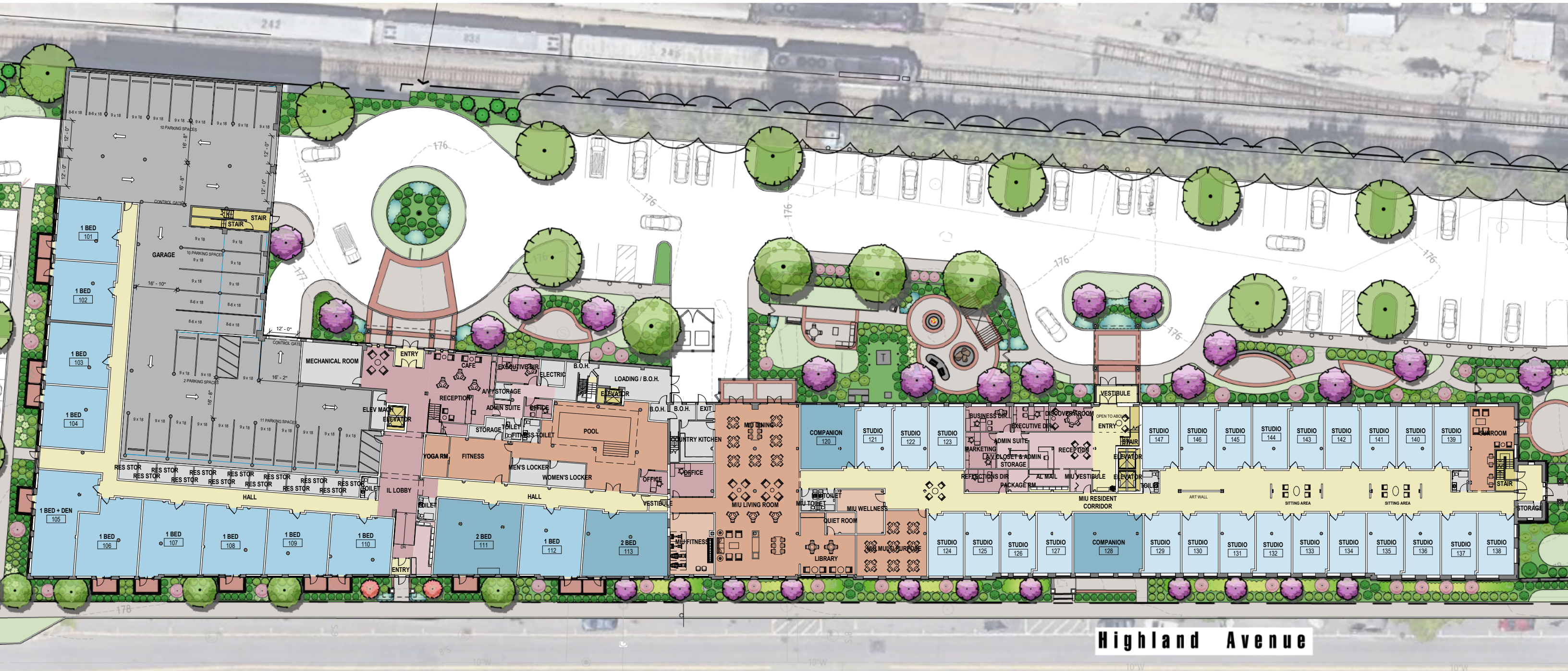
Thank you.

Sincerely,

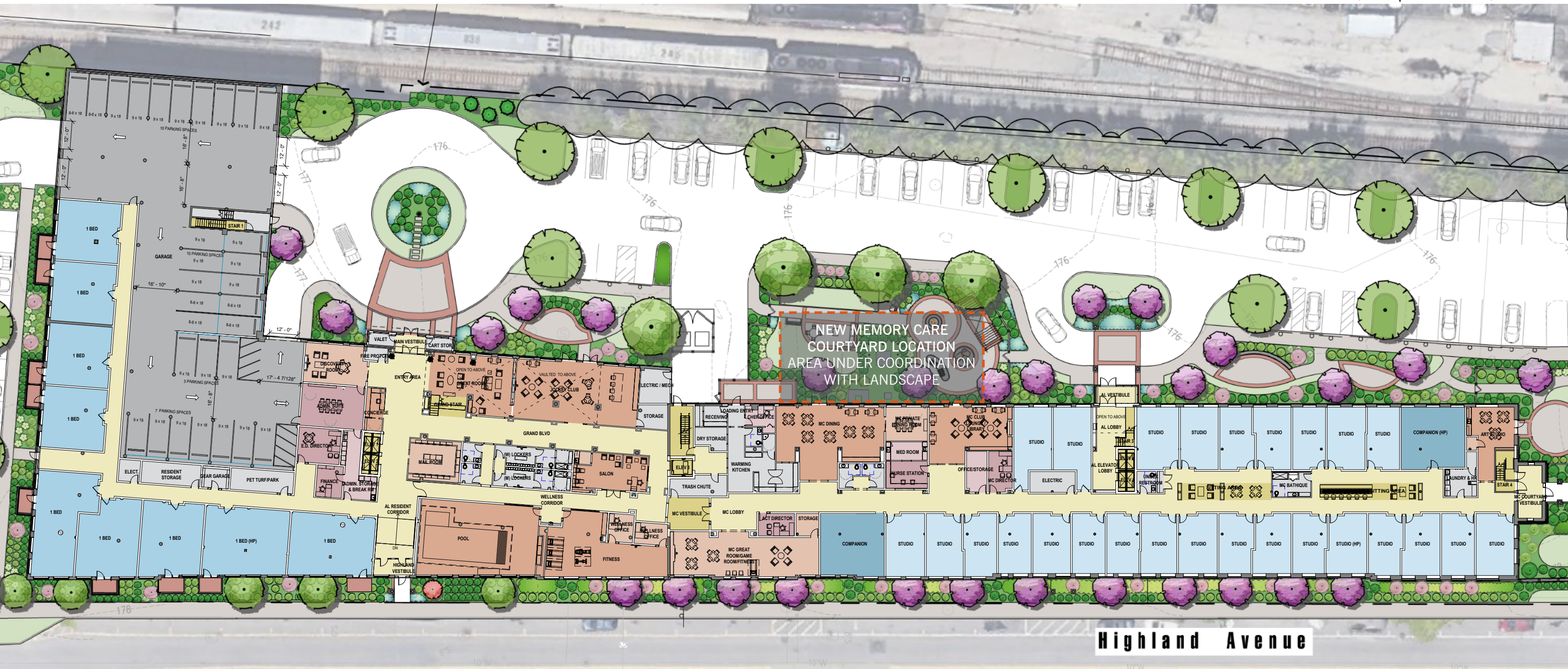
A handwritten signature in green ink, appearing to read "Evans Huber", is written over the word "Sincerely,".

Evans Huber

APPROVED PARKING:
(72 IL units x 1.0 spaces/unit) + (96 AL beds x 0.5 spaces/beds) +
(58 Employees x 1 Space/2 Employees) = 149 Spaces



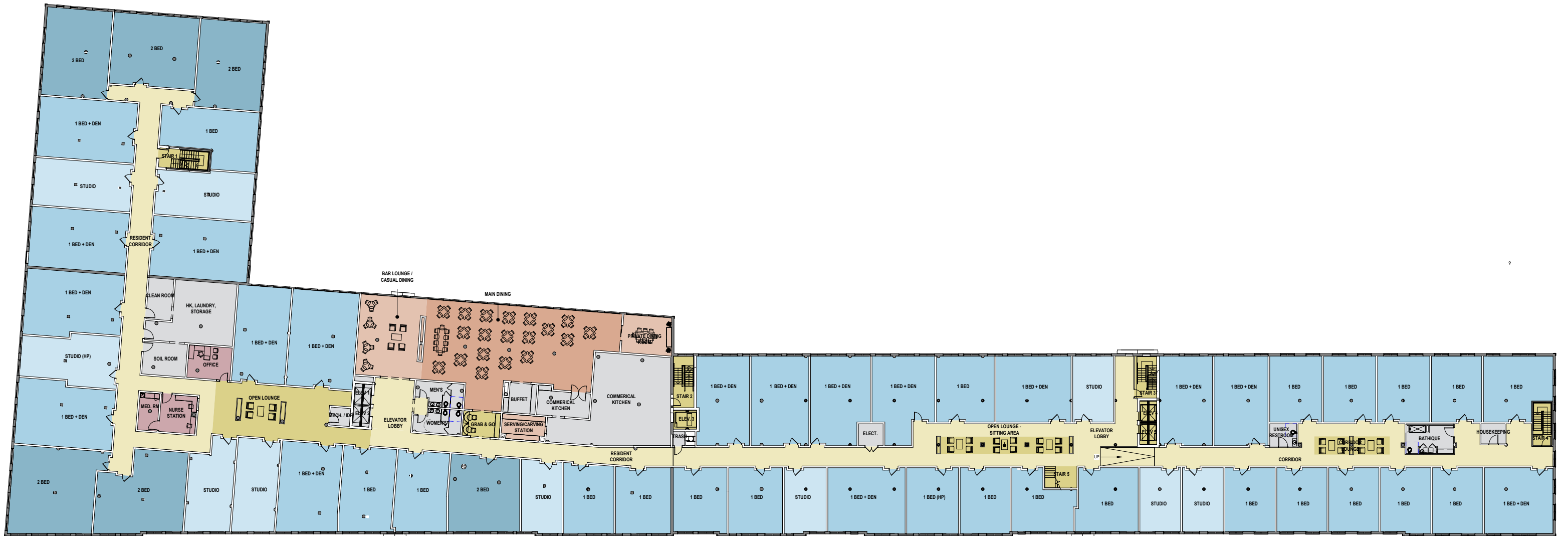
PROPOSED PARKING:
 (181 AL beds x 0.5 spaces/beds) +
 (68 Employees x 1 Space/2 Employees) = **125 Spaces Required**
 (149 Spaces Retained)





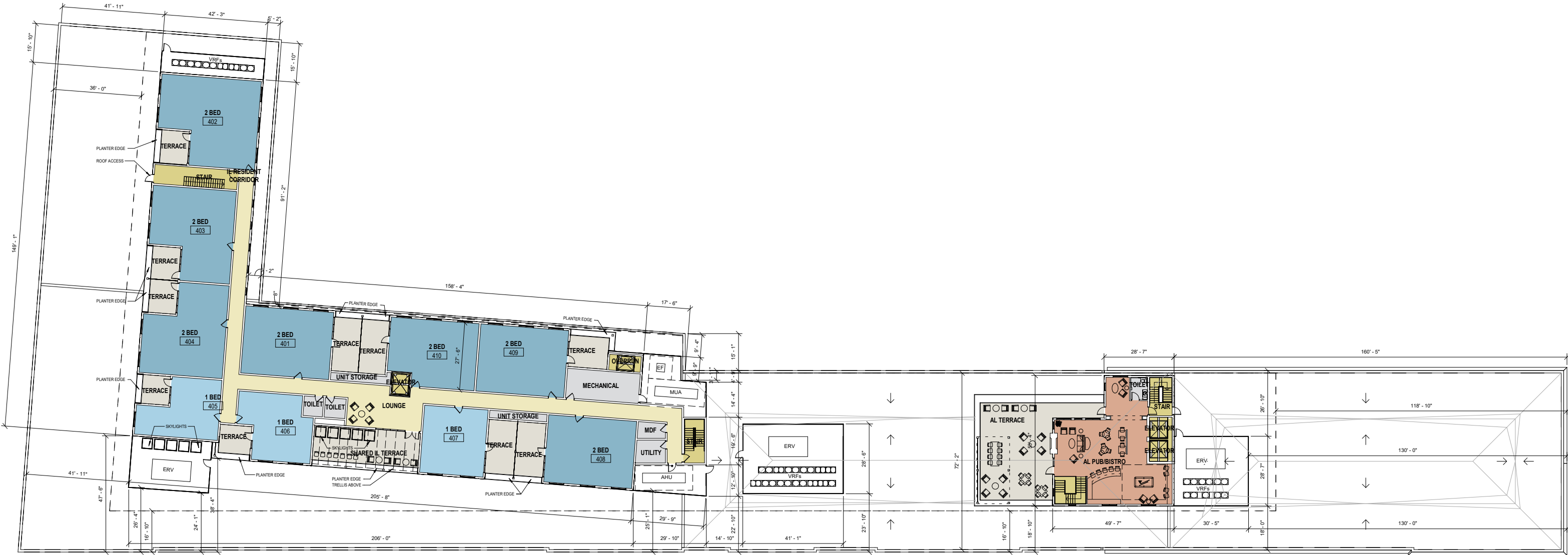






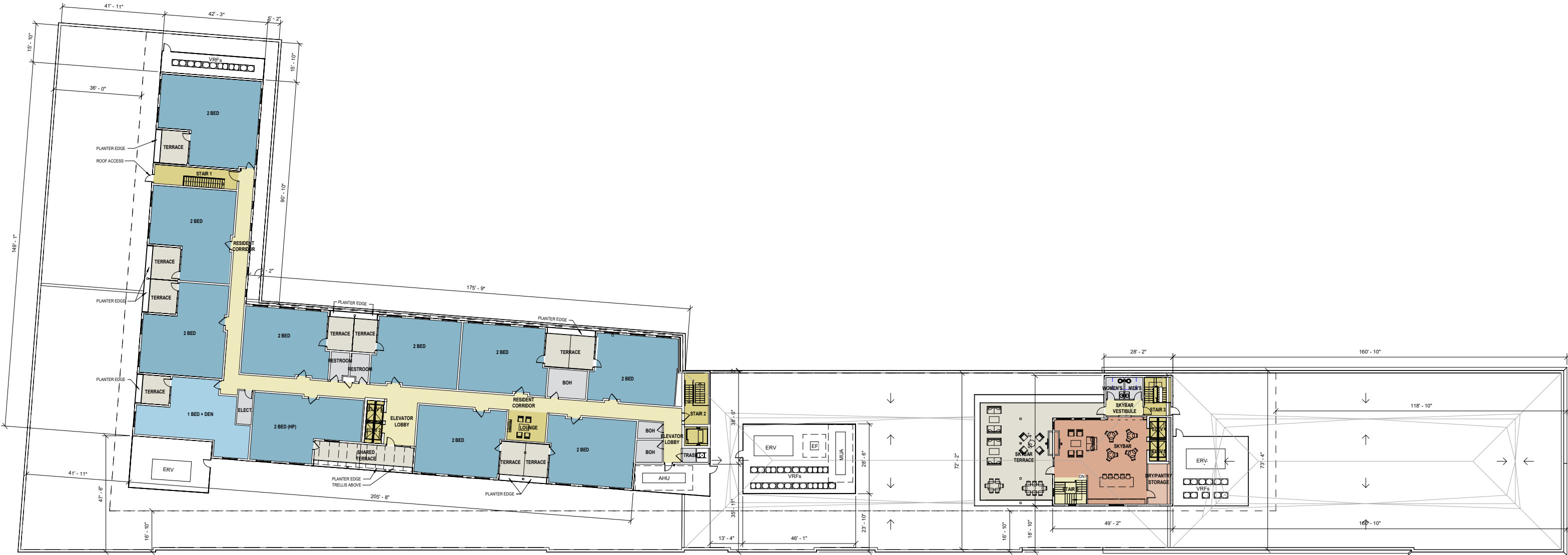
SQUARE FOOTAGE OF EXISTING ROOF	62,775 SF
SQUARE FOOTAGE OF PROPOSED IL FOURTH FLOOR & AL COMMON SPACE (INCLUDING TERRACES)	20,650 SF
PERCENT OF ROOF COVERED (INCLUDING TERRACES)	32.9%
SQUARE FOOTAGE OF PROPOSED IL FOURTH FLOOR & AL COMMON SPACE (EXCLUDING TERRACES)	15,900 SF
PERCENT OF ROOF COVERED (EXCLUDING TERRACES)	25.3%

ERV - ENERGY RECOVERY VENTILATOR
VRF - VARIABLE REFRIGERANT FLOW
MUA - MAKE UP AIR
AHU - AIR HANDLING UNIT
EF - EXHAUST FAN



SQUARE FOOTAGE OF EXISTING ROOF	62,775 SF
SQUARE FOOTAGE OF PROPOSED AL FOURTH FLOOR & AL COMMON SPACE (INCLUDING TERRACES)	22,000 SF
PERCENT OF ROOF COVERED (INCLUDING TERRACES)	35%
SQUARE FOOTAGE OF PROPOSED AL FOURTH FLOOR & AL COMMON SPACE (EXCLUDING TERRACES)	18,125 SF
PERCENT OF ROOF COVERED (EXCLUDING TERRACES)	28.9%

ERV - ENERGY RECOVERY VENTILATOR
VRF - VARIABLE REFRIGERANT FLOW
MUA - MAKE UP AIR
AHU - AIR HANDLING UNIT
EF - EXHAUST FAN





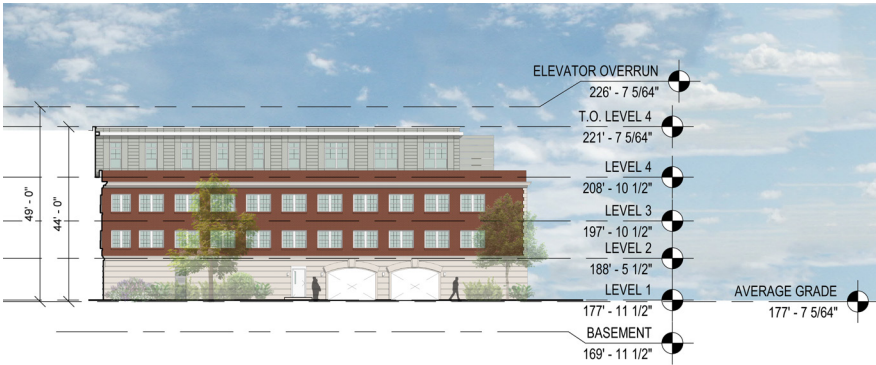
Approved East Elevation



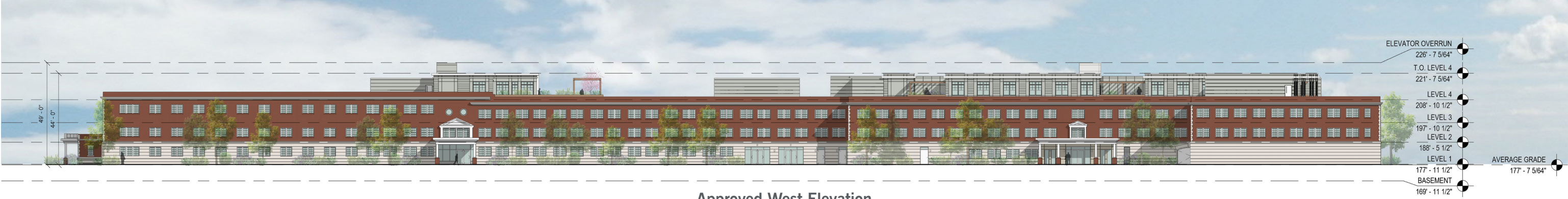
Proposed East Elevation



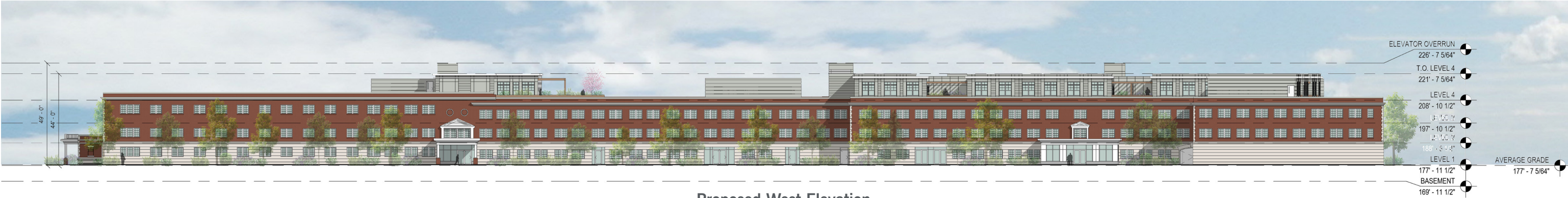
Approved North Elevation



Proposed North Elevation



Approved West Elevation



Proposed West Elevation



Approved South Elevation



Proposed South Elevation



Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Approved | Aerial View





Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Proposed | Aerial View





Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Approved | NW View from Highland Avenue





Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Proposed | NW View from Highland Avenue





Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

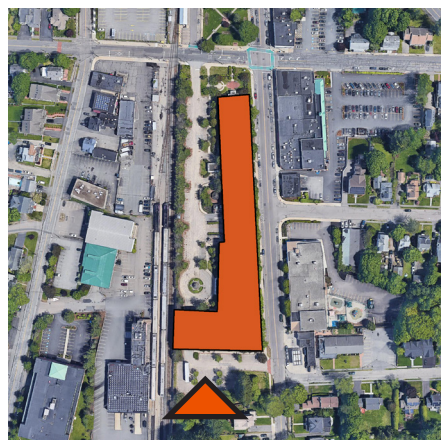
Approved | SW View from Highland Avenue



Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Proposed | SW View from Highland Avenue



Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Approved | North View from South Parking Lot





Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Proposed | North View from South Parking Lot





Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Proposed | South View from West Street





Balfour at Needham Heights

Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Approved | SE View from West Parking Lot



tat



Balfour at Needham Heights

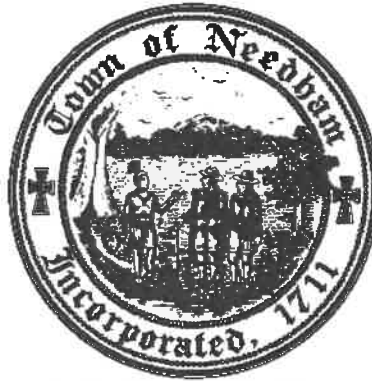
Needham, MA | February 01, 2022 | 18017 | © The Architectural Team, Inc.

Proposed | SE View from West Parking Lot



TOWN OF NEEDHAM

Office of the Town Clerk



BY-LAWS

Approved By the Attorney General

Special Town Meeting
October 4, 2020

February 4, 2021



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

2021 FEB -4 AM 11:04
CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MAURA HEALEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

February 4, 2021

Theodora K. Eaton, Town Clerk
Town of Needham
1471 Highland Avenue
Needham, MA 02492

**RE: Needham Special Town Meeting of October 4, 2020 - Case # 9951
Warrant Articles # 6 and 7 (Zoning)**

Dear Ms. Eaton:

Articles 6 and 7 - We approve Articles 6 and 7, and the map amendments adopted under Article 7, from the October 4, 2020, Needham Special Town Meeting. We will send the approved map to you by regular mail.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
Municipal Law Unit
Office of the Attorney General
Ten Mechanic Street, Suite 301
Worcester, MA 01608
508-792-7600

cc: Town Counsel Christopher H. Heep

Received
2021

TOWN CLERK
February 4, 2021

NEEDHAM
11:04



Theodora K. Eaton, MMC
Town Clerk

TOWN OF NEEDHAM

Office of the Town Clerk

1471 Highland Avenue, Needham, MA 02492-0909

Telephone (781) 455-7500 x216

Fax (781) 449-1246

Email: Teaton@needhamma.gov

AT THE SPECIAL TOWN MEETING

HELD ON SUNDAY, OCTOBER 4, 2020

UNDER ARTICLE 6

It was

VOTED:

That the Town vote to amend the Needham Zoning By-Law, as follows:

- (a) Amend the definition of “Independent Living Apartments” in Section 1.3, Definitions, by (i) adding the words “or Avery Square Overlay District” after the words “Elder Services Zoning District”; (ii) deleting the word “only” before the words “residential uses”; and (iii) adding to the end of the definition the sentence “; provided, however, that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities but need not be part of a Continuing Care Retirement Community.”, so that it reads as follows:

“A building in the Elder Services Zoning District or Avery Square Overlay District containing three or more dwelling units, which building houses residential uses and support services accessory thereto, intended primarily as independent living units for individuals aged 55 years or older, and/or families with at least one family member aged 55 years or older, within a Continuing Care Retirement Community; provided, however that within the Avery Square Overlay District, as provided in Section 3.15.3.2(d), below, such Independent Living Apartments may be located in a building that also houses Assisted Living and/or Alzheimer’s/Memory Loss Facilities, but need not be part of a Continuing Care Retirement Community.”

- (b) Amend Section 2.1 Classes of Districts by adding the following term and abbreviation under the subsection Overlay:

“ASOD — Avery Square Overlay District”

- (c) Amend Section 3, Use Regulations, by adding a new Subsection 3.15, Avery Square Overlay District, to read as follows:

“3.15 Avery Square Overlay District

3.15.1 Purposes of District

The purposes of the Avery Square Overlay District (“ASOD”) are to promote the health, safety, and general welfare of the community by creating opportunities for housing primarily serving individuals 55 years old or older, who wish to live in independent apartments and/or who may need to live in Assisted Living and/or Alzheimer’s/Memory Loss facilities, within walking distance of goods and services, public transportation, and the civic life of the town; to promote a vibrant, walkable area within the ASOD, and to encourage and allow redevelopment of the existing property within the ASOD in a manner that will further these purposes. Toward these ends, development in the Avery Square Overlay District

shall, as set forth in this Section 3.15, be permitted to exceed the density and dimensional requirements that normally apply in the underlying zoning district provided that such development complies with all other requirements of this Section 3.15.

3.15.2 Scope of Authority

In the Avery Square Overlay District, all requirements of the underlying district shall remain in effect except where this Section 3.15 provides an alternative to such requirements, in which case the requirements of this Section 3.15 shall prevail. If the provisions of the Avery Square Overlay District are silent on a requirement that applies in the underlying district, the requirements of the underlying district shall apply.

By filing an application for a Special Permit, site plan review or building permit under this Section 3.15, an applicant shall be deemed to accept and agree to the provisions and requirements of this Section 3.15. If an applicant elects to proceed pursuant to zoning provisions of the underlying district, the provisions and requirements of this bylaw applicable in the underlying district shall control and the provision of the Avery Square Overlay District shall not apply.

3.15.3 Use Regulations

3.15.3.1 Permitted Uses

The following uses are permitted in the Avery Square Overlay District as a matter of right:

- (a) Uses exempt from local zoning control under M.G.L. c.40A, s. 3.
- (b) Public, semi-public and institutional uses permitted as of right in the underlying district.
- (c) Business uses permitted as of right in the underlying district.
- (d) Accessory uses permitted as of right in the underlying district.

3.15.3.2 Special Permit Uses

The following uses are allowed in the Avery Square Overlay District by Special Permit issued by the Planning Board:

- (a) All uses allowed by special permit in the Avery Square Business District as set forth in Section 3.2.2 of this Bylaw, except those uses permitted as a matter of right as set forth in Section 3.15.3.1, above.
- (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities
- (c) Independent Living Apartments.
- (d) Buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses.

3.15.4 Dimensional Regulations

3.15.4.1 Building Height and Related Requirements

The maximum building height (including mechanical structures such as HVAC equipment) in the Avery Square Overlay District shall be 44 feet. This height limitation shall not apply to elevator shaft overruns, which shall not exceed a maximum height of 49 feet.

A building or structure which is located on property in the Avery Square Overlay District may include, but not exceed, four (4) stories, all of which may be occupied, except in the following circumstances:

- (a) With respect to the existing building, if a different use is proposed for the building that does not include Independent Living Apartments and/or Assisted Living and/or Alzheimer's/ Memory Loss Facilities as the primary use(s), then the proposed use shall be governed by the use regulations of Section 3.15.3, above, but the fourth story cannot be occupied without a special permit.
- (b) If the Special Permit described in subparagraph (a), above is not granted, the fourth story shall remain unoccupied for any use without a Special Permit, but the fourth story, and any associated mechanical equipment, does not need to be demolished.
- (c) In the event the existing building is demolished, if the primary use(s) of the successor building is not one or both of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), then the successor building shall not be permitted to have a fourth story.

The ability to use and occupy the fourth story, when permitted by a Special Permit granted pursuant to Sections 3.15.3.2 (b) and/or 3.15.3.2 (c), shall continue notwithstanding (i) a shift in the number of units from the use described in Section 3.15.3.2 (b) to the use described in Section 3.15.3.2 (c), or vice-versa; or (ii) the elimination of one of the uses described in Sections 3.15.3.2 (b) or 3.15.3.2 (c), provided such shift or elimination is allowed by such Special Permit or amendment thereto.

For the fourth story, minimum setback requirements, measured from the façade(s) of the building on which such fourth story is located, shall be as follows: from the eastern façade of the building (facing Highland Ave), fifteen (15) feet; from the northern façade of the building (closest to and facing West Street), one hundred and ten (110) feet; from the western façade of the building, zero (0) feet; from the southern façade of the building, thirty-five (35) feet. No fourth story setback from the north-facing building façade is required with respect to any portion of any building that is set back from West Street at least two hundred (200) feet.

The total floor area of any fourth floor addition to the building may not exceed thirty-five percent (35%) of the total roof area of the building. Mechanical equipment, including but not limited to HVAC equipment, whether or not enclosed, shall not be included in the calculation of maximum allowable floor area hereunder.

Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other height limitations nor any other limitations contained in Section 4.4.3.

3.15.4.2 Building Bulk and Other Requirements

The maximum floor area ratio in the Avery Square Overlay District shall be 1.1. Property contiguous with and in common ownership with property in the Avery Square Overlay District shall be included in the lot for purposes of calculating floor area ratio. The enclosed area of a building devoted to off-street parking shall not be counted as floor area for purposes of determining the maximum floor area ratio. Buildings developed under the regulations of the Avery Square Overlay District shall not be subject to any other limitations on floor area ratio, lot coverage, or building bulk contained in Sections 4.4.2, 4.4.7 and 4.4.9.

3.15.5 Off-Street Parking

Except as provided below, the off-street parking regulations in Section 5.1 and the regulations for enclosed parking in Section 4.4.6 shall apply in the Avery Square Overlay District.

- (a) The minimum number of off-street parking spaces in Section 5.1.2 shall apply except as follows:

- (1) For Independent Living Apartments, there shall be one space per Apartment.

- (2) For Assisted Living units and Alzheimer's/Memory Loss units, the parking requirement shall be one space for every two beds, plus one space for each two employees on the largest shift.

(b) Notwithstanding anything to the contrary elsewhere in this Bylaw, including but not limited to Section 4.4.8.4, in the event that land located in the Single Residence B Zoning District

- (1) is adjacent to the Avery Square Overlay District;
- (2) is in common ownership with adjacent land located in the Avery Square Overlay District; and
- (3) prior to approval of this Section 3.15, was improved as a parking area associated with a building located in the Avery Square Overlay District;

then, provided that said land extends into the Single Residence B Zoning District not more than one hundred (100') feet from the boundary line between the Single Residence B Zoning District and the Avery Square Business District, said land may, as a matter of right, be used as a parking area accessory to uses permitted in the Avery Square Overlay District by right or by special permit.

3.15.6 Affordable Housing

Any building with ten or more Independent Living Apartments shall include affordable housing units as defined in Section 1.3 of this By-Law, as may be modified in this Section 3.15.6. The following requirements shall apply to a development that includes ten or more Independent Living Apartments:

- (a) For a development with ten or more Independent Living Apartments, twelve and one-half percent (12.5%) of the Independent Living Apartments shall be affordable units. In the instance of a fraction, the fraction shall be rounded up to the nearest whole number. There shall be no affordable housing requirement for nursing homes, convalescent homes, Assisted Living and Alzheimer's/Memory Loss Facilities, or residential care institutions or facilities.
 - (b) If the Applicant provides at least one-half of the affordable Independent Living Apartments required herein for households with incomes at or below 50% of area median income, the remaining affordable Independent Living Apartments may be rented to households with incomes up to 100% of area median income even if the latter units are therefore not eligible for the Subsidized Housing Inventory, regardless of any requirements to the contrary set forth in Section 1.3.
 - (c) Affordable units shall be dispersed within the building and not concentrated in one area or on one floor. They shall generally be comparable in size, energy efficiency, quality, convenience, and unit-specific real estate-related amenities to the development's market-rate units. Services and other amenities that may be purchased by residents on a voluntary basis are not to be considered unit-specific real estate-related amenities and are excluded from such comparability requirements.
 - (d) The selection of eligible homebuyers or renters for the affordable units shall be in accordance with a marketing plan approved by the Needham Planning Board prior to the issuance of any building permits for the development.
 - (e) The affordable units shall be subject to an affordable housing restriction as defined in Section 1.3 of this By-Law with limitations on use, occupancy, resale prices or rents, as applicable, and which provides for periodic monitoring for compliance with the requirements of said restriction."
- (d) Amend Section 4.4.4 Front Setback, by adding the following paragraph after the fourth paragraph of that section:

"In the Avery Square Overlay District, the front setback, if any, shall be kept open and landscaped with grass, plants, and other non-paving materials such as mulch, and shall be unpaved except for patios, walks, and driveways as defined in section 4.4.5. Walls (including walls serving in part as retaining walls) no higher than 36 inches above the grade of the

patios, as well as fencing and privacy screening, along the front and side edges of the patios, shall be allowed in the Avery Square Overlay District.”

- (e) Amend Section 4.4.6 Enclosed Parking, by adding the phrase “for each square foot” before the words “of parking space (excluding driveways and aisles)” on the fourth line of the first paragraph of that section so that it reads as follows:

“Whenever off-street parking is provided underground and/or within a building itself, the maximum area coverage of the building may be increased up to the limits of the required setback as provided herein. The lot coverage of the building may be increased up to 2 ½ % points above the maximum allowed percentage, by one square foot for each square foot of parking space (excluding driveways and aisles) that is underground and/or within the building itself.”

Parking which is under a building or partially underground shall, except for driveways, be separated from the street line by building space occupied by the principal use, not by parking.

In the Center Business District, enclosed parking shall be entirely below the grade of adjoining streets measured at their respective center lines. Access to enclosed parking shall be from the rear of the building. If provided, enclosed parking shall not be visible from the street. The placement of parking underground shall not raise the first non-parking floor of a structure above grade. Municipal parking facilities in the Center Business District shall be exempt from this provision.”

- (f) Amend Section 7.6.1 Special Permit Granting Authority, by adding the number “3.15” after the number “3.14” on the second line of that Section so that it reads as follows:

“The Planning Board shall act as a Special Permit Granting Authority only where so designated in Sections 3.4, 3.8, 3.9, 3.10, 3.14, 3.15, 4.2.10, 4.2.11, 4.2.12, 4.4.5, 4.4.9, 4.4.10, 5.1.1.6, 6.6, 6.8, and 7.4 of this Bylaw. In all other cases the Board of Appeals shall act as the Special Permit Granting Authority. Procedures and decision criteria for the Planning Board shall be the same as specified in Section 7.5.2 and Section 7.5.3 (second and fourth paragraphs) for special permits acted on by the Board of Appeals, except where alternative or supplemental criteria are specified, such as at Sections 3.4 and 6.6.”

UNANIMOUS VOTE

A true copy

ATTEST:


Theodora K. Eaton, MMC, Town Clerk



Theodora K. Eaton, MMC
Town Clerk

TOWN OF NEEDHAM

Office of the Town Clerk

1471 Highland Avenue, Needham, MA 02492-0909

Telephone (781) 455-7500 x216

Fax (781) 449-1246

Email: Teaton@needhamma.gov

AT THE SPECIAL TOWN MEETING

HELD ON SUNDAY, OCTOBER 4, 2020

UNDER ARTICLE 7

It was

VOTED: That the Town will vote to amend the Needham Zoning By-Law by amending the Zoning Map as follows:

- (a) Place in the Avery Square Overlay District all that land described as follows, and superimposing that District over the existing Avery Square Business District:

Beginning at the point of intersection of the westerly sideline of Highland Avenue and the northerly sideline of what was formerly known as Hildreth Place (said former Hildreth Place as shown on Needham Town Assessors Map 63); thence running northerly by the westerly sideline of Highland Avenue to the point of curvature of a curve having a radius of 20 feet and an arc length of 29.27 feet; said curve being a property rounding of the intersection of the westerly sideline of Highland Avenue and the southerly sideline of West Street; thence running northerly, northwesterly, and westerly by said curve to the point of tangency of said curve located on the southerly sideline of West Street; thence running westerly by the southerly sideline of West Street to the point of intersection of the southerly sideline of West Street and the easterly right of way line of MBTA property; thence running southerly by said easterly right of way line of MBTA property to the intersection of the easterly right of way line of MBTA property and the northerly sideline of what was formerly known as Hildreth Place; thence running easterly by the northern boundary of what was formerly known as Hildreth Place, to the point of beginning.

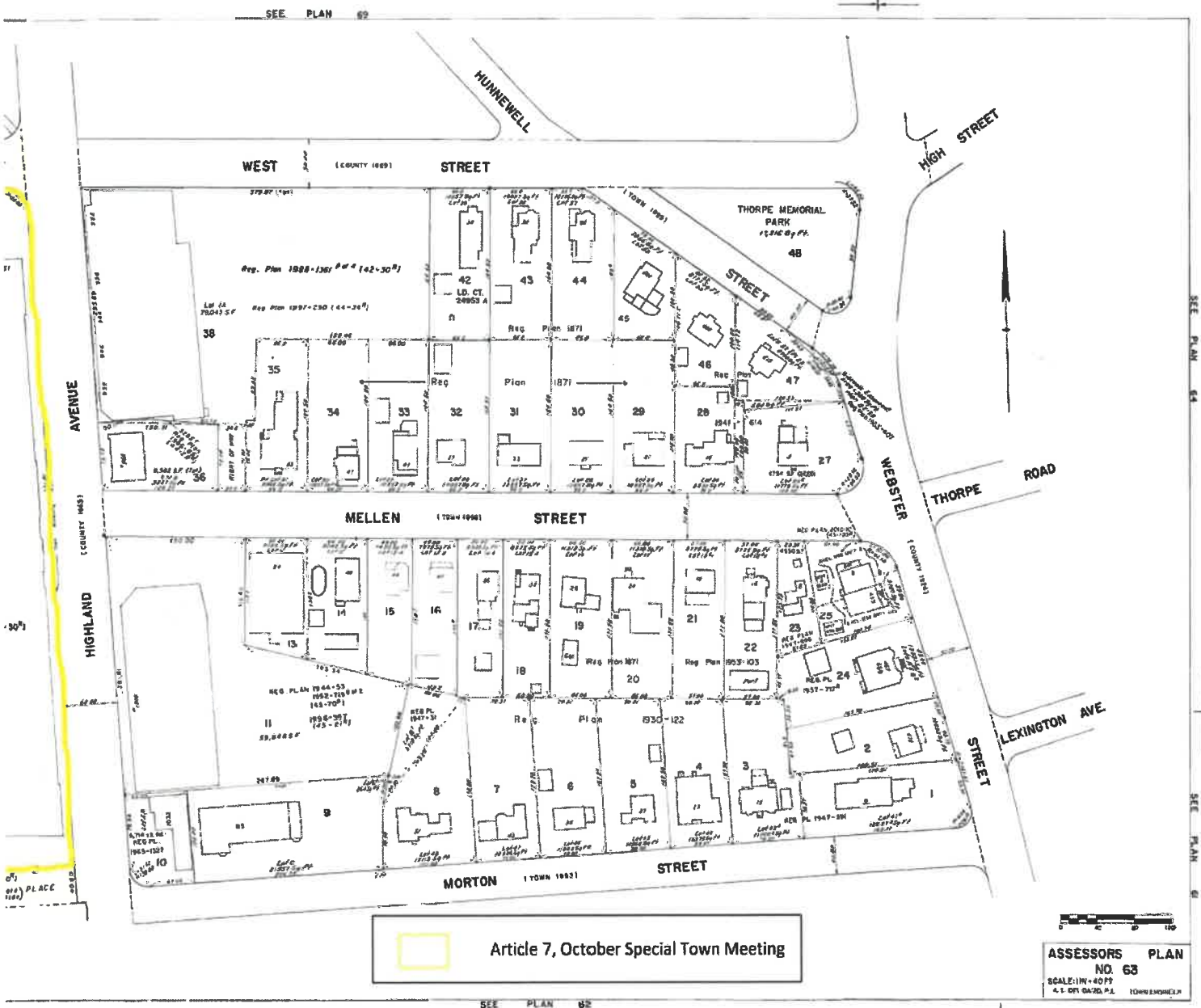
The land is also shown on Needham Town Assessors Map 63, Parcel 37, but excluding any land to the south of the northerly sideline of what was formerly known as Hildreth Place.

**TWO THIRDS VOTE DECLARED BY THE MODERATOR
ON A VOICE VOTE**

A true copy

ATTEST:


Theodora K. Eaton, MMC, Town Clerk



Article 7, October Special Town Meeting



ASSESSORS PLAN
NO. 63
SCALE: 1/4" = 40' 0"
A. L. CH. 04/20, P.L. 10/20/2020

A True Copy
Attest:

Shirley K. Eaton
Town Clerk of Needham, MA



TOWN OF NEEDHAM, MA

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

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

DECISION

May 18, 2021

PLANNING

Major Project Site Plan Review Special Permit
WELL LCB Needham Landlord LLC, c/o LCB Senior Living
SPMP No. 2021-01

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

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of WELL LCB Needham Landlord LLC, c/o LCB Senior Living, 3 Edgewater Drive, Suite 101, Norwood, MA, 02062 (hereinafter the Petitioner), for property located at 100-110 West Street, Needham, MA. WELL LCB Needham Landlord LLC, the developer and operator of the property at 100 West Street, is a joint venture between LCB Senior Living, LLC and Welltower, Inc., which owns the property through HCRI Massachusetts Properties Trust II. The property is shown on Assessor's Map No. 63 as Parcel 37 containing a total of 4.298 acres in the Avery Square Business, Single Residence B and Avery Square Overlay Zoning Districts.

This Decision is in response to an application submitted to the Board on March 11, 2021 by the Petitioner for a Major Project Site Plan Review Special Permit under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law) and associated special permits.

The requested Major Project Site Plan Review Special Permit would, if granted, permit the Petitioner to redevelop the property to include an 83 unit assisted living and Alzheimer's/memory care facility and 72 independent living apartment units (9 affordable). The existing 3 story brick building is proposed to remain. The existing footprint of the building is not proposed to change and a partial fourth story will be added to create 10 of the proposed 72 independent living apartments. The parking lot to the south of the building will remain unchanged except for selected new landscaping and the parking lot west of the building and adjacent to the railroad right of way will be modified slightly, including selected new landscaping.

In accordance with the By-Law, Section 7.4, a Site Plan Review Special Permit is required. In accordance with the By-Law, Section 1.4.6, a Special Permit is required, if applicable, for the alteration of a non-conforming structure. The structure is a legally pre-existing non-conforming structure as to the requirements of Sections 4.4.8.4 and 4.4.9. In accordance with the By-Law, Section 3.15.3.2 (b), (c), and (d), a Special Permit is required to allow the following uses allowed in the Avery Square Overlay Zoning District by Special Permit: (b) Assisted Living and/or Alzheimer's/Memory Loss Facilities; (c) Independent Living Apartments; and (d) Buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, as well as accessory uses subordinate to and customarily incidental to the primary uses. In accordance with the By-Law, Sections 5.1.1.5 and 5.1.1.7, a Special Permit is required to waive strict adherence to the off-street parking requirements of Section 5.1.3 of the By-Law, with respect to subsections (h) (parking space layout) and (i) (width of maneuvering aisle).

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, Jeanne S. McKnight on Tuesday, April 20, 2021 at 7:20 p.m. via remote meeting using Zoom ID 826-5899-3198. Board members Jeanne S. McKnight, Martin Jacobs, Paul S. Alpert and Adam Block were present throughout the April 20, 2021 proceedings. The record of the proceedings and the submission upon which this Decision is based may be referred to in the office of the Town Clerk or the office of the Board.

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

- Exhibit 1 - Application Form for Site Plan Review completed by the applicant dated March 11, 2021.
- Exhibit 2 - Secretary's Certificate.
- Exhibit 3 - Two letters from Evans Huber Attorney, dated March 3, 2021 and March 4, 2021.
- Exhibit 4 - Traffic Impact Study entitled "The Residence at Carter Mill, 100-110 West Street, Needham, MA", prepared by McMahon Associates, Inc., 120 Water Street, 4th Floor, Boston, MA, dated February, 2021.
- Exhibit 5 - Appendix for Traffic Impact Study, entitled "The Residence at Carter Mill, 100-110 West Street, Needham, MA", prepared by McMahon Associates, Inc., 120 Water Street, 4th Floor, Boston, MA, dated February, 2021.
- Exhibit 6 - Plan set entitled "Site Development Plan for The Residence at Carter Mill," prepared by Kelley Engineering Group, 0 Campanelli Drive, Braintree, MA, consisting of 6 sheets: Sheet 1, Cover Sheet, dated January 29, 2021; Sheet 2, entitled "Existing Conditions Plan," dated January 29, 2021; Sheet 3, entitled "Layout and Zoning Plan," dated January 29, 2021; Sheet 4, entitled "Grading Plan," dated January 29, 2021; Sheet 5, entitled "Detail Sheet," dated January 29, 2021; Sheet 6, no title, showing photometrics, dated January 29, 2021.
- Exhibit 7 - Plan set entitled "The Residence at Carter Mill," prepared by The Architectural Team, consisting of 11 sheets: Sheet 1, entitled "Proposed Aerial View," dated January 29, 2021; Sheet 2, entitled "First Floor Plan," dated January 29, 2021; Sheet 3, entitled "Second Floor Plan," dated January 29, 2021; Sheet 4, entitled "Third Floor Plan," dated January 29, 2021; Sheet 5, entitled "Fourth Floor Plan," dated January 29, 2021; Sheet 6, entitled "East Elevation (Highland Ave)," dated January 29, 2021; Sheet 7, entitled "North Elevation A & B (West Street and from West Street Parking Lot)," dated January 29, 2021; Sheet 8, entitled "West Elevation," dated January 29, 2021; Sheet 9, entitled "South Elevation," dated January 29, 2021; Sheet 10, entitled "Building Sections," dated January 29, 2021; Sheet 11, entitled "Proposed Elevation Materials," dated January 29, 2021.
- Exhibit 8 - Plan set entitled "The Residence at Carter Mill," prepared by The Architectural Team, consisting of 11 sheets: Sheet 1, entitled "Proposed Aerial View," dated January 29, 2021; Sheet 2, entitled "First Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 3, entitled "Second Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 4, entitled "Third Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 5, entitled "Fourth Floor Plan," dated January 29, 2021, revised May 21, 2021; Sheet 6, entitled "East Elevation (Highland Ave)," dated January 29, 2021; Sheet 7, entitled "North Elevation A & B (West Street and from West Street Parking Lot)," dated January 29, 2021; Sheet

8, entitled "West Elevation," dated January 29, 2021; Sheet 9, entitled "South Elevation," dated January 29, 2021; Sheet 10, entitled "Building Sections," dated January 29, 2021; Sheet 11, entitled "Proposed Elevation Materials," dated January 29, 2021.

- Exhibit 9 - Plan set entitled "The Residence at Carter Mill, Landscape Permit Plans," prepared by the Hawk Design Inc., Sagamore, MA, consisting of 12 sheets: Sheet 1, Cover Sheet; Sheet 2, Sheet L1.0, entitled "Landscape Master Plan," dated January 29, 2021, revised February 24, 2021; Sheet 3, Sheet L2.1, entitled "North Planting Plan," dated January 29, 2021, revised February 24, 2021; Sheet 4, Sheet L2.2, entitled "Central Planting Plan," dated January 29, 2021, revised February 24, 2021; Sheet 5, Sheet L2.3, entitled "South Planting Plan," dated January 29, 2021, revised February 24, 2021; Sheet 6, Sheet L2.4, entitled "West Buffer Planting Plans," dated January 29, 2021, revised February 24, 2021; Sheet 7, Sheet L3.1, entitled "North Materials Plan," dated January 29, 2021, revised February 24, 2021; Sheet 8, Sheet L3.2, entitled "Building Arrival & Resident Courtyard Materials Plan," dated January 29, 2021, revised February 24, 2021; Sheet 9, Sheet L3.3, entitled "Assisted Living Entrance Materials Plan," dated January 29, 2021, revised February 24, 2021; Sheet 10, Sheet LD 1, entitled "Plan Schedule and Planting Details," dated January 29, 2021, revised February 24, 2021; Sheet 11, Sheet LD 2, entitled "Planting Notes," dated January 29, 2021, revised February 24, 2021; Sheet 12, Sheet LD 3, entitled "Construction Details," dated January 29, 2021, revised February 24, 2021.
- Exhibit 10 - Stormwater Management Report, entitled "The Residence at Carter Mill, 100-110 West Street, Needham, MA, prepared by Kelley Engineering Group, 0 Campanelli Drive, Braintree, MA, dated February 25, 2021.
- Exhibit 11- Plans stamped approved by Design Review Board dated February 22, 2021.
- Exhibit 12 - Email from the Village Club, Board of Directors, dated April 15, 2021.
- Exhibit 13 - Interdepartmental Communication (IDC) to the Board from Chief Dennis Condon, Needham Fire Department, dated March 10, 2021; IDC to the Board from Chief John Schlittler, Needham Police Department, dated April 14, 2021; IDC from Thomas Ryder, Assistant Town Engineer, dated April 14, 2021; IDC to the Planning Department from Tara Gurge, Needham Health Department, dated March 22, 2021.

Exhibits 1,2, 3, 4, 5, 6, 8, 9, and 10 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 at 100-110 West Street, Needham, MA, at the corner of Highland Avenue and West Street in the Avery Square Business District and the Avery Square Overlay District, with a portion of the property located in the Single Residence B Zoning District. The property is shown on Assessor's Map No. 63 as Parcel 37 containing a total of 4.298 acres. The property is presently owned by the HCRI Massachusetts Properties Trust II.

- 1.2 The property is currently vacant and is improved by a three-story brick building of approximately 186,000 square feet, outdoor parking areas to the south and west of the building and an indoor parking area. Most recently, until 2017, the site was occupied by Avery Crossing, a 60 unit assisted living/memory care facility, Avery Manor, a 142-bed skilled nursing facility, and medical offices comprising approximately 8,308 square feet.
- 1.3 The Petitioner proposes to redevelop the property for a 155-unit facility comprised of 72 independent living apartment units (96 bedrooms), 55 regular assisted-living units (66 beds) and 28 assisted-living units (30 beds) specializing in Alzheimer's and other memory loss related conditions. 9 of the 72 independent living apartment units will be affordable units as defined in Section 1.3 of the By-Law. 13 of the 83 assisted living units will have two beds in them, for a total of 96 assisted living unit beds.
- 1.4 The existing 3 story brick building will remain. The existing footprint of the building will not change and a partial fourth story will be added to create 10 of the proposed 72 independent living apartments. The building will contain approximately 203,120 square feet including the parking garage which comprises 13,900 square feet at completion.
- 1.5 The project will include 149 on-site parking spaces including 34 interior garage spaces and 115 exterior spaces together with associated landscaping, driveways and other improvements. Access to and from the site will continue to be provided via two existing full-access driveways, one on West Street and one on Highland Avenue. The parking lot to the south of the building will remain unchanged except for selected new landscaping and the parking lot west of the building and adjacent to the railroad right of way will be modified slightly, including selected new landscaping.
- 1.6 As indicated in the Zoning Table shown on the Plan, the lot conforms to zoning requirements as to area and frontage. As indicated in the Zoning Table shown on the Plan, the proposed building will comply with all applicable dimensional and density requirements of the Avery Square Business District and the Avery Square Overlay District namely, front, side and rear setback, maximum building height, maximum number of stories, and floor area ratio with one noted exception. By-law Section 4.4.8.4 requires a 50-foot building setback from a residential district boundary. The existing structure is set 33 feet from the noted residential district and is a legal pre-existing non-conforming structure as to the requirements of Section 4.4.8.4.
- 1.7 The project is comprised of the following: 72 independent living apartment units (96 bedrooms) and 83 assisted living units (total of 96 beds). Twenty-eight of the assisted living units will specialize in Alzheimer's and other memory loss related conditions. The maximum number of employees at the site on the largest shift will be 58.
- 1.8 Under the By-Law, Section 5.1.2, the parking requirement for the project is 149, calculated as follows: a) 72 independent living units x 1.0 spaces per unit equals 72 spaces, plus b) 96 assisted-living beds x 0.5 spaces equals 48 spaces, plus c) 58 employees at the largest shift at 1 space per two employees equals 29 parking spaces. A total of 149 spaces are provided on site (115 exterior parking spaces and 34 garage parking spaces). Further 28 parallel parking spaces are available along Highland Avenue adjacent to the property that can be counted as off-street parking pursuant to By-Law Section 5.1.1.7 for a total parking supply of 177 spaces.
- 1.9 The project complies with all the parking area design criteria set forth in Section 5.1.3 except that the Petitioner is seeking a waiver from Sections 5.1.3(h), and 5.1.3 (i). The Petitioner is seeking a waiver from Section 5.1.3(h) (Parking Space Layout) which requires

that all parking areas be designed so that each motor vehicle may proceed to and from its parking space without requiring the movement of any other vehicle and proposes to locate 5 tandem parking spaces within the parking garage. The Petitioner is further seeking a waiver from Section 5.1.3(i) (Maneuvering Aisle Width) which requires a minimum maneuvering aisle width of twenty-four feet for 90-degree parking spaces and proposes a width of 16 to 18 feet within the parking garage. Existing column to column width spacing in the parking garage currently precludes compliance with this condition

- 1.10 McMahan Associates, Inc., conducted a Traffic Impact Study to determine the traffic impacts associated with the construction of the proposed senior assisted living and memory care /independent living facility (Exhibit 4). The study reviewed existing traffic operating parameters on key roadways and intersections, estimated the anticipated traffic volume increases as a result of the proposed project, and analyzed the projects traffic-related impacts. A detailed analysis of traffic operations during the weekday morning and weekday afternoon peak hours, when the combination of adjacent roadway volumes and project trips would be expected to be the greatest was provided. The study also reviewed the previous on-site uses and their impacts to traffic and parking within the study area relative to the proposed project. Based on the analysis of the proposed project and a review of the previous land use, the proposed project was estimated to have a lesser impact on study area traffic and to require less parking than both the previous land use and the proposed on-site parking supply. The proposed project was further shown to have a negligible impact on the area roadways and intersections.
- 1.11 The Petitioner appeared before the Design Review Board on February 22, 2021 and obtained approval of the project.
- 1.12 The Board finds that the project incorporates as many green building standards as practical, given the type of building and proposed use. The Petitioner has committed to tracking the Leadership in Energy & Environmental Design (LEED) criteria, and to show that it has met (except for good cause, including but not limited to the limitations imposed by the existing building) the LEED "Silver" standard for the project by submitting to the Board prior to the issuance of the building permit the checklist prepared by the project architect itemizing the LEED criteria for the proposed building and by submitting to the Board prior to issuance of the occupancy permit a copy of the project architect's affidavit certifying project compliance (except for good cause, including but not limited to the limitations imposed by the existing building) with the LEED "Silver" standard for the project.
- 1.13 The facility will have a minimal impact on neighboring streets. Adequate parking has been provided for staff, deliveries, visiting professionals, family and friends of residents.
- 1.14 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 site has been designed to ensure that there will be no off-site drainage impacts. A drainage system exists on site. The drainage system will ensure that peak storm generation levels will remain unchanged. The proposed site layout plans were presented to the Engineering Department and, as set forth more fully in the Stormwater Management Report filed as part of this Application, it was agreed the proposed project is exempt from the Needham Stormwater Bylaw.

An extensive landscape plan has been developed for screening and enhancing the existing site. Noise and visual impacts have been minimized by locating the proposed 4th floor well set back from the north, east, and south sides of the building, which in many places is set back from the façade of the building further than the By-Law requires and, overall, occupies a smaller percentage of the existing roof area than the By-Law allows. The neighbors to the west will be protected by means of the existing buffering provided by a combination of existing trees and vegetation, new plantings, and the MBTA rail lines.

The lighting system for the project has been designed to fully comply with the Town of Needham lighting requirements and will consist of decorative cut off fixtures on low poles, as well as bollards to provide illumination for pedestrian walkways on site.

The Design Review Board has reviewed and approved the landscaping plan and the exterior lighting plan.

- 1.15 The convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with other regulations for the handicapped, minors and the elderly, has been adequately provided for. Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets, and the proper location of driveway openings in relation to traffic and to adjacent streets, has been assured. As shown on the Plan, the project has been designed to ensure that there will be safe vehicular and pedestrian circulation throughout the site. The access to and egress from the property will be via existing driveway openings off West Street and Highland Avenue that will remain and provide access to the site. Sidewalks exist on both West Street and Highland Avenue that connect to the sidewalks on the site. This allows for easy pedestrian access to the site.
- 1.16 The arrangement of parking and loading spaces in relation to the proposed uses of the premises is adequate. Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been achieved. The proposed exterior parking area complies with the By-Law requirements for number of spaces, illumination, loading, parking space size, location, design and number of handicap spaces, width of maneuvering aisles, setbacks, and landscaping. The parking is distributed throughout the site to provide convenience for employees and visitors. With respect to the interior parking, Special Permits are requested for parking space layout for certain tandem spaces, and for the aisle width in one portion of the garage. Both conditions have existed for many years.
- 1.17 Adequate methods for disposal of refuse and waste will be provided. The site has been designed such that adequate methods of disposal of refuse resulting from the uses permitted on the site have been assured. A dumpster enclosure is provided adjacent to the loading area west of the building. The dumpster enclosure will be screened by means of a fence. Refuse will be removed from the site by a licensed hauler.
- 1.18 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 has been adequately addressed by this project. The matters to be considered by this Board in connection with relationship of structures and open spaces to the natural landscape, existing buildings, and other community assets in the area, have been addressed, and apart from the special permits requested, the project complies with all other requirements of the By-Law. The existing building is surrounded by existing commercial buildings to the North, East, and West ranging in size from one story to multi-story buildings, and residential homes to the South. The footprint of the existing building will remain unchanged, and the relatively minor façade changes have been designed to maintain

the historic character of the existing building. The addition of the fourth floor on a portion of the building is harmonious with the design of this building and the nearby commercial buildings. There is a natural landscape buffer which will be maintained to the South of the site. To the West of the site are a natural landscape buffer, which will be enhanced by the proposed landscaping plan, as well as the existing MBTA railroad right-of-way. The Senior Center for the Town of Needham is within walking distance of the property. The Design Review Board has reviewed and approved all proposed changes to the exterior of the building, as well as the proposed new fourth floor.

- 1.19 The project will not have an adverse affect on the Town's resources, including the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The proposed use is expected to have minimal impacts on Town resources due to the nature of the use. It is a clean, quiet, low impact use. The project has been designed to limit adverse impacts to the Town resources as follows: The project will connect to the Town's water system that is located on Highland Avenue. The Petitioner met with the Engineering Department and there were no concerns raised regarding water pressure and flow for this area of Town. The project will maintain the existing sewer connections to the Town's sewer system by means of the connections to the sewer main located on Highland Avenue. The proposed site layout plans were presented to the Fire Department prior to finalizing the layouts and the Fire Department was satisfied with the proposed circulation. Finally, as shown in the Traffic Impact Analysis submitted with this application, the project is expected to have a minimal impact on vehicle trips and level of service on Highland Avenue and West Street during peak hours, even when compared to no-build conditions, and is expected to generate less traffic than the prior use of the site.
- 1.19 Under Section 7.4 of the By-Law, a Major Project Site Plan Special Permit may be granted in the Avery Square Overlay 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.
- 1.20 Under Section 1.4.6 of the By-Law, a lawful pre-existing nonconforming structure may be structurally altered only pursuant to a special permit issued by the Board pursuant to Section 7.5.2 provided that the Board determines such alteration would not be substantially more detrimental to the neighborhood than the existing non-conforming structure. On the basis of the above findings and criteria, the Board finds that the proposed alteration, as conditioned and limited herein, to be in harmony with the purposes and intent of the By-Law, to comply with all applicable By-Law requirements, and to not increase the existing non-conforming structure nor to be more detrimental to the neighborhood than the existing non-conforming structure.
- 1.22 Under Section 3.15.3.2 (b), (c), and (d) of the By-Law, a special permit to operate assisted living and/or Alzheimer's/memory loss facilities, independent living apartments, and buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District may be granted in the Avery Square Overlay 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, 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 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 Sections 5.1.3(h) and 5.1.3(i), as further described in Section 1.9 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.

THEREFORE, the Board voted 4-0 to GRANT (1) the requested Major Project Site Plan Review Special under Section 7.4 of the By-Law, (2) the requested Special Permit under Section 1.4.6 of the By-Law for the alteration of a lawful pre-existing non-conforming structure, (3) the requested Special Permit under Section 3.15.3.2 (b), (c), and (d) of the By-Law, to operate assisted living and/or Alzheimer's/memory loss facilities, independent living apartments, and buildings with multiple uses containing, as a primary use, such uses as are allowed by special permit or by right in the Avery Square Overlay District or the Avery Square Business District, and (4) the requested Special Permit under Section 5.1.1.5, to waive strict adherence with the requirements of Section 5.1.3 (Parking Plan Design Requirements) of the Zoning By-Law, more specifically, in Section 5.1.3(h) to waive the parking space layout standard which requires that all parking areas be designed so that each motor vehicle may proceed to and from its parking space without requiring the movement of any other vehicle and to approve in the alternative 5 tandem parking spaces within the parking garage as shown on the Plan, and in Section 5.1.3(i), to waive the maneuvering aisle width standard which requires a minimum maneuvering aisle width of twenty-four feet for 90-degree parking spaces and to approve in the alternative a maneuvering aisle width of 16 to 18 feet within the parking garage as shown on the Plan; subject to the following plan modifications, conditions and limitations.

PLAN MODIFICATIONS

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

- 2.0 The Plan shall be modified to show a landscape screen around the generator.

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 3.42 hereof.

- 3.1 This permit is issued for the operation of a 155-unit facility comprised of 72 independent living apartment units (96 bedrooms), 55 regular assisted-living units (66 beds) and 28 Alzheimer's related assisted-living units (30 beds) specializing in Alzheimer's and other memory loss related conditions. 9 of the 72 independent living apartment units shall be affordable independent living apartment units as defined in Section 1.3 of the By-Law. Notwithstanding the above, the Petitioner may reallocate the 83 assisted living unit beds to either the regular assisted living classification or the Alzheimer's assisted living classification as authorized under Section 3.2 below.
- 3.2 No administrative use, other than that needed for operation of the independent living units, regular assisted living units, Alzheimer's assisted living units or other community activity incidental to the facility being conducted on the site, shall be allowed.
- 3.3 The nine affordable independent living apartment units in the project shall be as defined in Section 1.3 of the By-Law. Said units shall comply with all applicable provisions of the Department of Housing and Community Development's (DHCD) Chapter 40B Guidelines, dated February 22, 2008, as amended, and shall be eligible for the Chapter 40B Subsidized Housing Inventory as "Local Action Units" under the DHCD Local Initiative Program. It shall be the Petitioner's responsibility to prepare any and all applications, exhibits, and supporting documentation that DHCD requires in order to approve the unit for the Subsidized Housing Inventory and to record a DHCD-approved affordable housing restriction with the Norfolk Registry of Deeds or the Land Court. No certificate of occupancy shall be issued for the project until the Petitioner provides evidence that such restriction has been so recorded.
- 3.4 Subject to DHCD approval, the Petitioner shall set aside up to 70% of the affordable units as local preference units, i.e. offered first to Needham residents or persons with a connection to the Town, in accordance with a local preference policy determined by the Select Board consistent with DHCD directives and applicable state and federal laws. The Town will provide reasonable assistance to the Petitioner in designing an affirmative marketing plan for the Affordable Units. The Town may delegate oversight of an affirmative marketing plan and local preference selection procedures to another organization deemed appropriate by the Board to represent the Town interests. All costs associated with preparing and implementing the affirmative marketing plan and local preference procedures shall be paid by the Petitioner.
- 3.5 The Town of Needham intends to enter into an agreement with a person or entity selected by the Town Manager and approved by DHCD to monitor the Petitioner's compliance with the affordability restriction on an annual basis and to provide an annual report of its monitoring to the Town (the "Monitoring Agent"). The Petitioner shall pay for the cost of the Monitoring Agent pursuant to a separate agreement between the Town and the Petitioner. The Petitioner shall cooperate with the monitoring agent by providing all documentation necessary to demonstrate that the affordable housing units comply with Section 1.3 of the Zoning By-Law and this Decision and are occupied by income-eligible households.
- 3.6 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.

- 3.7 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. Notwithstanding the above, the Petitioner may revise the floor plans without the need for additional hearings or approvals, provided that the total square footage of the building does not increase, the total number of independent living apartment units does not exceed 72 units (96 bedrooms), the total number of assisted-living units does not exceed 83, and the total number of assisted living beds (whether they be regular assisted living beds or Alzheimer's related assisted living beds) does not exceed 96.
- 3.8 All buildings and land constituting the premises shall remain under a single ownership.
- 3.9 The staffing for the 83 regular assisted living units and Alzheimer's related units shall be limited to 58 employees on-site during the largest shift, including both assisted living employees, and other assisted living affiliated employees.
- 3.10 Sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this Decision, and there shall be no parking of motor vehicles off the locus at any time except in the 28 parking spaces on Highland Avenue adjacent to the property.
- 3.11 In addition to a total of 28 on-street parking spaces on Highland Avenue adjacent to the property that can be counted as off-street parking pursuant to By-Law Section 5.1.1.7, a total of 149 parking spaces shall be provided on the site at all times in accordance with the Plan, as modified by this Decision. A total of 34 of these on-site spaces shall be provided on the first-floor parking garage in the building with the remaining 115 on-site spaces to be provided in the surface lots located on the west and south sides of the site. 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.
- 3.12 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.
- 3.13 All shift changes shall be staggered, and the Petitioner shall use best efforts to prevent shift changes during the a.m. and p.m. peak-hour traffic periods.
- 3.14 The emergency diesel fueled generator to be installed at the edge of the parking lot along the MBTA right-of-way shall be designed and operated so as to comply with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. The emergency diesel fueled generator shall also be installed and screened as far as practical to minimize the visibility of the emergency generator. The Petitioner shall deliver to the Board for its review and approval plans and specifications of said emergency diesel fueled generator, including sound attenuation components, if necessary together with Petitioner's certification to the Board that said emergency generator has been designed such that when it is operated it will be in compliance with the regulations described above with respect to noise, and screened in accordance with the requirements described above.

- 3.15 Prior to project occupancy, an as-built plan of the emergency generator together with a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Board, available manufacturer's specifications are insufficient to demonstrate compliance with applicable noise standards) shall be submitted to the Board for its review and approval. The sound analysis shall demonstrate compliance with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations.
- 3.16 Normal maintenance and testing of the emergency generator shall be limited to one occurrence per month between the weekday hours of 9:00 a.m. and 5:00 p.m. for a period not to exceed 2 hours. The emergency generator shall not operate more than 300 hours per rolling 12-month period, including the normal maintenance and testing procedure as recommended by the manufacturer and periods when the primary power source for WELL LCB Needham Landlord LLC, has been lost during an emergency, such as a power outage, an on-site disaster or an act of God.
- 3.17 This Special Permit to operate an 155-unit facility as described in this Decision is issued to WELL LCB Needham Landlord LLC, c/o LCB Senior Living, Edgewater Drive, Suite 101, Norwood, Massachusetts. Prior to any change in the entity operating the facility (other than a change to an affiliated entity under common control with WELL LCB Needham Landlord LLC), Petitioner shall provide written notice of the anticipated change to the Board, and the new operating entity shall provide a written statement to the Board, signed by a person who will be responsible for the operations of the facility, that they have read this Decision and acknowledge that the terms hereof are binding on the new entity.
- 3.18 The non-memory care assisted living units may have a small refrigerator, microwave, sink and small convection cook top. The memory care units may have a small refrigerator and sink. If a memory care resident is evaluated and is deemed capable to use a microwave, the Petitioner may allow a microwave in that resident's memory care unit. The Petitioner shall install a charcoal filtration ventilation system for cooking exhaust and shall operate the kitchen without negative impact on the abutting properties from cooking odors.
- 3.19 All utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.20 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit or impact fee, if applicable.
- 3.21 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit and any grants of location that are required from the utility companies.
- 3.22 The Petitioner shall secure from the Needham Department of Public Works a Water Main and Water Service Connection Permit per Town requirements.
- 3.23 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges. Sealing of abandoned drainage facilities and abandonment of all utilities shall be carried out per Town requirements.
- 3.24 The Petitioner shall connect the sanitary sewer line only to known sources. All known sources that cannot be identified shall be disconnected and properly sealed.

- 3.25 The construction, operation and maintenance of any subsurface infiltration facility, on-site catch basins and pavement areas, shall conform to the requirements outlined in the Town of Needham Stormwater By-Law.
- 3.26 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. Proprietary Devices - inspect and maintain per manufacturing recommendations.
- 3.27 The maintenance of site and parking lot landscaping shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.28 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.
- 3.29 All solid waste shall be removed from the site by a private contractor. Snow shall also be removed or plowed by private contractor. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced.
- 3.30 All deliveries and trash dumpster pick up shall occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, not at all on Sundays and holidays. The trash shall be picked up no less than two times per week. The dumpster shall be screened with a vinyl fence, which shall be maintained in good condition. The dumpster shall be maintained in a locked condition with the key controlled by management to ensure compliance with the trash removal conditions of this permit. The dumpster shall be emptied, cleaned and maintained to meet Board of Health standards.
- 3.31 All lights shall be shielded and adjusted during the evening hours to prevent any annoyance to the neighbors. The Petitioner shall reduce its parking lot lights during the night and early morning consistent with safety and security concerns. No later than 11:30 p.m., the Petitioner shall reduce the parking lot lights using the lights on the building to shine down and provide basic security. The building lights shall be set at a low light level to prevent any annoyance to the neighbors to the extent reasonable and practicable, consistent with safety and security requirements.
- 3.32 The Petitioner shall track the Leadership in Energy & Environmental Design (LEED) criteria for the project and shall submit to the Board the checklist prepared by the project architect itemizing the LEED criteria as it relates to the proposed building prior to the issuance of the building permit. The Petitioner shall show that it has met (except for good cause, including but not limited to the limitations imposed by the existing building) the LEED "Silver" standard for the Project prior to the issuance of the occupancy permit.
- 3.33 In constructing and operating the proposed building on the locus pursuant to this Special Permit, due diligence shall be exercised, and reasonable efforts shall be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.

- 3.34 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.
- 3.35 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.
- 3.36 The following interim safeguards shall be implemented during construction:
- a. The hours of construction shall be 7:00 a.m. to 5:00 p.m. Monday through Saturday.
 - b. The Petitioner's contractor shall provide temporary security chain-link or similar type fencing around the portions of the project site, which require excavation or otherwise pose a danger to public safety.
 - c. The Petitioner's contractor shall designate a person who shall be responsible for the construction process. That person shall be identified to the Police Department, the Department of Public Works, the Building Inspector and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Highland Avenue and West 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 Highland Avenue and West Street clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.37 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 deliver to the Board for its review and approval plans and specifications of said emergency diesel fueled generator, including sound attenuation components, if necessary together with Petitioner's certification to the Board that said emergency generator has been designed such that when it is operated it will be in compliance with the regulations described above with respect to noise. The emergency gas generator shall also be installed and screened as far as practical so as to minimize the visibility of the emergency generator. Said plans and certification shall be approved by the Board without the requirement of a public hearing.
 - d. The Board shall have received a copy of the checklist prepared by the project architect itemizing the LEED criteria as it relates to the proposed building as described in paragraphs 1.12 and 3.32.

- 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.
- 3.38 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. There shall be filed by the Petitioner an as-built plan of the emergency generator and a sound level analysis prepared by an acoustical engineer (if, in the opinion of the Board, available manufacturer's specifications are insufficient to demonstrate compliance with applicable noise standards). The sound analysis shall demonstrate compliance with all applicable Federal, state and local regulations addressing sound attenuation to protect adjoining properties and the nearest inhabited residence from excessive noise, as defined in said regulations. Said as-built plan and sound level analysis shall be reviewed and approved by the Board without the requirement of a public hearing.
 - f. The Town shall have received a copy of the recorded DHCD-approved affordable housing restriction as described in paragraph 3.3.
 - g. The Board shall have received a copy of the project architect's affidavit certifying project compliance with the LEED "Silver" standard for the project as described in paragraphs 1.12 and 3.32.
 - h. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Inspector may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135%

of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.

- 3.39 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.
- 3.40 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.
- 3.41 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.
- 3.42 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 to 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 May 18, 2023, 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 May 18, 2023. 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.

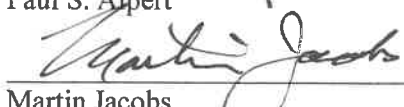
Any person aggrieved by this Decision may appeal pursuant to General Laws, Chapter 40A, Section 17, within twenty (20) days after filing of this Decision with the Needham Town Clerk.

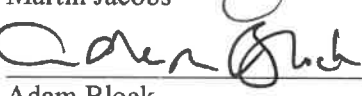
Witness our hands this 18th day of May, 2021.

NEEDHAM PLANNING BOARD


Jeanne S. McKnight, Chairman


Paul S. Alpert


Martin Jacobs

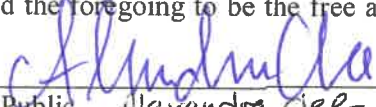

Adam Block

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss

May 26, 2021

On this 26 day of May, 2021, before me, the undersigned notary public, personally appeared Martin Jacobs, 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 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 Alexandra Ciel

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 WELL LCB Needham Landlord LLC, c/o LCB Senior Living, 3 Edgewater Drive, Suite 101, Norwood, MA 02062, for Property located at 100-110 West Street, Needham, MA, 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
Evans Huber

File Attachments

File Attachments

File Properties

Title:
 Author:
 Subject:
 Project:
 Revisor:
 Client:

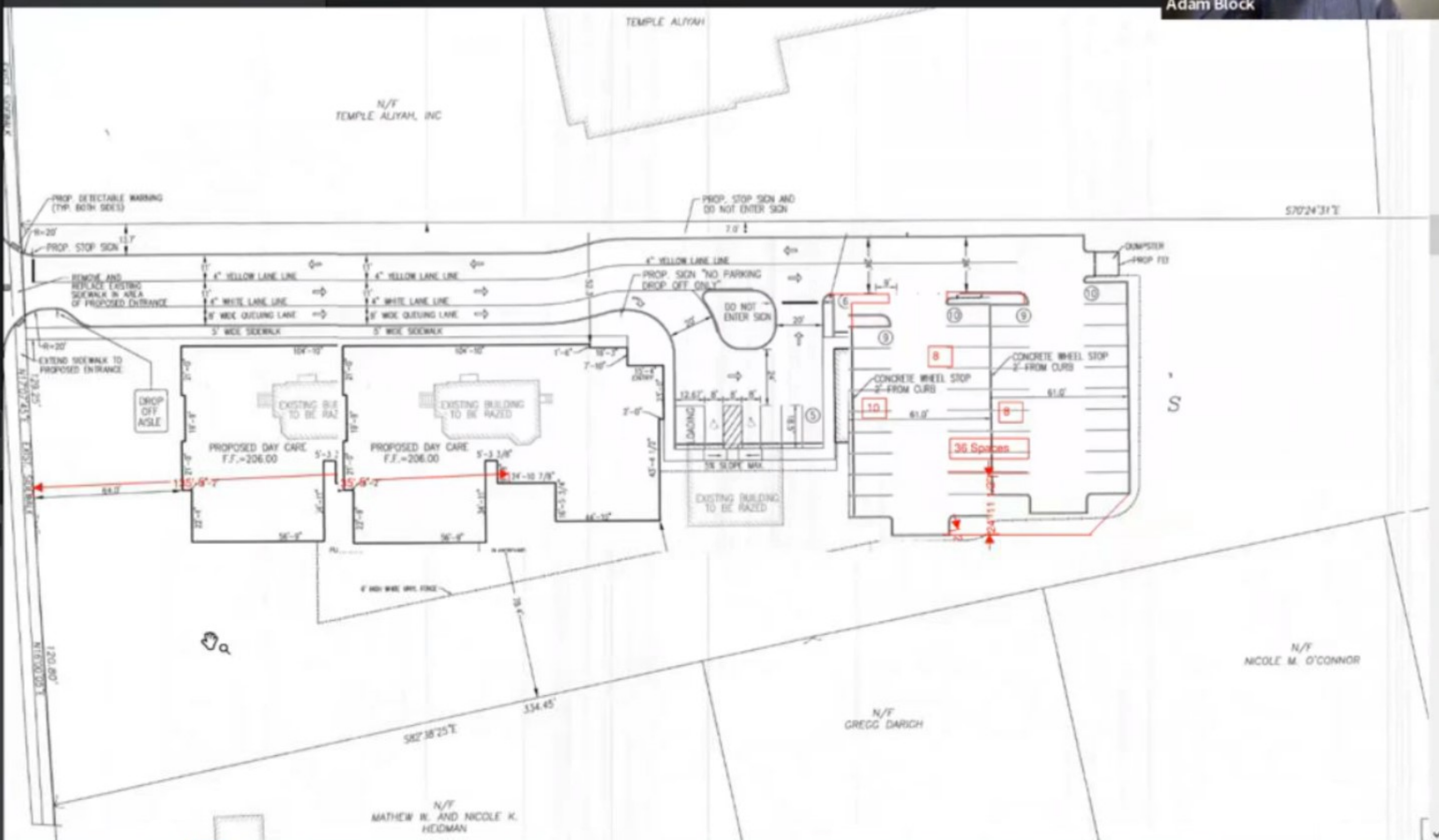
Tags - Page 3

Name	Value

Custom Properties

Name	Value

1688 Central Ave Site Plans 11-08-21 compressed*



Adam Block

DECISION
February 1, 2022

MAJOR PROJECT SITE PLAN REVIEW DECISION
Needham Enterprises, LLC
1688 Central Avenue, Needham, MA
Application No. 2021-02

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

DECISION of the Planning Board (hereinafter referred to as the “Board”) on the application of Needham Enterprises, LLC, 105 Chestnut Street, Suite 28, Needham, MA, (to be referred to hereinafter as the “Petitioner”) for property located at 1688 Central Avenue, Needham, Massachusetts (hereinafter referred to as the “property”). The property is shown on Needham Assessor’s Plan No. 199 as Parcel 213 containing a total of 3.352 acres and is located in the Single Residence A District.

This decision is in response to an application submitted to the Board on May 20, 2021, by the Petitioner for: (1) Major Project Site Plan Review under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law).

The requested Major Project Site Plan Review relates to, and allows the Planning Board to impose restrictions upon, the Petitioner building a new child-care facility that will house an existing Needham child-care business, Needham ~~Children’s~~Children’s Center, Inc., a Massachusetts Corporation ~~Center~~ (hereinafter “NCC”). The property is presently improved by a two-story residential building (single-family dwelling comprising 1,663 square feet), two smaller out-buildings (garage comprising 400 square feet and second garage comprising 600 square feet) and a barn comprising 4,800 square feet. The proposed project is to demolish the single-family dwelling and the two garages at the property. A new one-story building of 10,034 square feet will be constructed, to house the child-care facility. Pursuant to the proposed project, the existing 4,800 square foot barn at the property would be retained and used for accessory storage by the child-care facility. A new parking area that includes 30 off-street surface parking spaces will also be constructed.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters, and other parties in interest, as required by law, the hearing was called to order by the Chairman, Paul S. Alpert, on Monday, June 14, 2021, at 7:20 p.m. via remote meeting using Zoom ID 826-5899-3198. No testimony was taken at the June 14, 2021, public hearing and the public hearing was continued to Tuesday, July 20, 2021, meeting held via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, August 17, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Wednesday September 8, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, October 5, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, October 19, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, November 2, 2021, via remote meeting using Zoom ID 826-

5899-3198. The public hearing was continued to Tuesday, November 16, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Wednesday December 8, 2021, via remote meeting using Zoom ID 826-5899-3198. Board members Paul S. Alpert, Adam Block, Jeanne S. McKnight, and Martin Jacobs were present throughout the proceedings. No testimony was taken at the June 14, 2021, public hearing, August 17, 2021, public hearing and October 19, 2021, public hearing. Board member Natasha Espada recused herself from the deliberations. The record of the proceedings and submissions upon which this approval is based may be referred to in the office of the Board.

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

Applicant submittals. Application, Memos, Plans, Traffic Studies, Drainage. Etc.

- Exhibit 1 - Properly executed Application for Site Plan Review for: (1) A Major Project Site Plan under Section 7.4 of the Needham By-Law, dated May 20, 2021.
- Exhibit 2 - Letter from Matt Borrelli, Manager, Needham Enterprises, LLC, dated March 16, 2021.
- Exhibit 3 - Letter from Attorney Evans Huber, dated March 11, 2021.
- Exhibit 4 - Letter from Attorney Evans Huber, dated March 12, 2021.
- Exhibit 5 - Letter from Attorney Evans Huber, dated March 16, 2021.
- Exhibit 6 - Architectural plans entitled "Needham Enterprises, Daycare Center, 1688 central Avenue," prepared by Mark Gluesing Architect, 48 Mackintosh Avenue, Needham, MA, consisting of 4 sheets: Sheet 1, Sheet A1-0, entitled "1st Floor Plan, dated Mach 8, 2021; Sheet 2, Sheet A1-1, entitled "Roof Plan," dated March 8, 2021; Sheet 3, Sheet A2-1 showing "Longitudinal Section," "Nursery/Staff Room Section," "Toddler 1/ Craft Section at Dormer," and "Playspace/Lobby Section," dated March 8, 2021; and Sheet 4, Sheet A3-0, showing "North Elevation," "West Elevation," "East Elevation," and "South Elevation," dated March 8, 2021.
- Exhibit 7 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 10 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020; Sheet 3, entitled "Site Plan," dated June 22, 2020; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020; Sheet 6, entitled "Construction Details," dated June 22, 2020; Sheet 7, entitled "Construction Details," dated June 22, 2020; Sheet 8, entitled "Sewer Extension Plan and Profile," dated November 19, 2020; Sheet 9, entitled "Construction Period Plan," dated June 22, 2020; Sheet 10, entitled "Appendix, Photometric and Site Lighting," dated June 22, 2021, **all plans stamped January 26, 2021.**
- Exhibit 8 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, dated March 2021.

- Exhibit 9 - Stormwater Report prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, dated June 22, 2020, stamped January 26, 2021.
- Exhibit 10 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, revised March 2021.
- Exhibit 11 - Memo prepared by John T. Gillon, Gillon Associates, Traffic and Parking Specialists, dated April 5, 2021.
- Exhibit 12 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021; Sheet 7, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021; Sheet 8, entitled "Sewer Extension Plan and Profile," dated November 19, 2020, revised April 15, 2021; Sheet 9, entitled "Construction Period Plan," dated June 22, 2020, revised April 15, 2021, **all plans stamped April 15, 2021.**
- Exhibit 13 - Architectural plans entitled "Needham Enterprises, Daycare Center, 1688 central Avenue," prepared by Mark Gluesing Architect, 48 Mackintosh Avenue, Needham, MA, consisting of 2 sheets: Sheet 1, Sheet A3-0, showing "North Elevation," "West Elevation," "East Elevation," and "South Elevation," dated March 8, 2021, revised March 30, 2021; Sheet 2, Sheet A1-0, entitled "1st Floor Plan, dated March 8, 2021, revised March 30, 2021.
- Exhibit 14 - Letter from Attorney Evans Huber, dated April 16, 2021.
- Exhibit 15 - Letter from Attorney Evans Huber, dated April 21, 2021.
- Exhibit 16 - Memorandum from Attorney Evans Huber, dated May 5, 2021.
- Exhibit 17 - Letter from Attorney Evans Huber, dated May 14, 2021.
- Exhibit 18 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 7, entitled "Construction

Details,” dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 8, entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021 and June 2, 2021; Sheet 9, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021 and June 2, 2021, **all plans stamped June 2, 2021.**

- Exhibit 19 - Architectural plans entitled “Needham Enterprises, Daycare Center, 1688 central Avenue,” prepared by Mark Gluesing Architect, 48 Mackintosh Avenue, Needham, MA, consisting of 2 sheets: Sheet 1, Sheet A1-0, entitled “1st Floor Plan, dated March 8, 2021, revised March 30, 2021 and May 30, 2021; Sheet 2, Sheet A3-0, showing “North Elevation,” “West Elevation,” “East Elevation,” and “South Elevation,” dated March 8, 2021, revised March 30, 2021 and May 30, 2021.

- Exhibit 20 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, revised June 2021.

- Exhibit 21 - Letter from Attorney Evans Huber, dated June 14, 2021.

- Exhibit 22 - Presentation shown at the July 20, 2021 public hearing.

- Exhibit 23 - Materials presented by ~~NCC~~ eedham Children’s Center at the July 20, 2021 public hearing comprising two sheets entitled “Proposed Pick Up and Drop Off Operations Needham Children’s Center, Inc.”, undated and “Projected Arrivals and Departures Based on 95 Children”, undated.

- Exhibit 24 - Memorandum from Attorney Evans Huber, dated August 4, 2021.

- Exhibit 25 - Plans entitled “Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA,” consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 2, entitled “Existing Conditions Plan of Land in Needham, MA,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 3, entitled “Site Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 4, entitled “Grading and Utilities Plan of Land,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 5, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 6, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 7, entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 8, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 9, entitled “Landscaping Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021, **all plans stamped July 28, 2021.**

- Exhibit 26 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, dated August 11, 2021.

- Exhibit 27 - Memo prepared by John T. Gillon, Gillon Associates, Traffic and Parking Specialists, dated August 21, 2021, transmitting Response to Greenman-

Pedersen, Inc. peer review.

- Exhibit 28 - Technical Memorandum, from John Gillon, prepared by Gillon Associates, Traffic and Parking Specialists, dated September 2, 2021.
- Exhibit 29 - Letter from Attorney Evans Huber, dated September 30, 2021.
- Exhibit 30 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 5, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 7, entitled "Sewer Extension Plan and Profile," dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 8, entitled "Construction Period Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 9, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021, **all plans stamped September 29, 2021.**
- Exhibit 31 - Plan entitled "Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, and September 28, 2021.
- Exhibit 32 - Memorandum from Attorney Evans Huber, dated October 13, 2021.
- Exhibit 33 - Email from Evans Huber, dated October 14, 2021 with two attachments: Vehicle Count for September 2019 and Vehicle Count for February 2020.
- Exhibit 34 - Memorandum from Attorney Evans Huber, dated October 28, 2021.
- Exhibit 35 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, , September 28, 2021 and October 28, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 5, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2,

2021, July 28, 2021 , September 28, 2021 and October 28, 2021; Sheet 6, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 7, entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 8, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 9, entitled “Landscaping Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021, **all plans stamped October 28, 2021.**

- Exhibit 36 - Plan entitled “Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, and October 28, 2021.
- Exhibit 37 - Technical Memorandum, from John Gillon, prepared by Gillon Associates, Traffic and Parking Specialists, dated October 27, 2021.
- Exhibit 38 - Email from Evans Huber, dated November 8, 2021, regarding “1688 Central Ave request for additional peer review fees.”
- Exhibit 39 - Memorandum from Attorney Evans Huber, dated November 10, 2021.
- Exhibit 40 - Plans entitled “Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA,” consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 2, entitled “Existing Conditions Plan of Land in Needham, MA,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, , September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 3, entitled “Site Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 4, entitled “Grading and Utilities Plan of Land,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 5, entitled “Landscaping Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 6, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 , September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 7, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 8, entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 9, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 10, entitled “Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021, **all plans stamped November 8, 2021.**

- Exhibit 41 - Plan entitled "1688 Central Turning Radius," consisting of 3 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032: sheet 1, showing "20' Delivery Van," dated October 6, 2021; Sheet 2, showing "30' Trash Truck," dated October 6, 2021; sheet 3, showing "30' Trash Truck," dated October 6, 2021.

- Exhibit 42 - Email from Evans Huber, dated November 11, 2021, regarding "Traffic Peer Review: 1688 Central Avenue."

- Exhibit 43 - Letter from Attorney Evans Huber, dated December 2, 2021, with attached minutes from Canton Zoning Board of Appeals from March 25, 2021.

- Exhibit 44 - Memorandum from Attorney Evans Huber, dated December 2, 2021.

- Exhibit 45 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 7, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 8, entitled "Sewer Extension Plan and Profile," dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 9, entitled "Construction Period Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 10, entitled "Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021, **all plans stamped November 22, 2021.**

- Exhibit 46 - Letter from Attorney Evans Huber, dated December 16, 2021, with two attachments: (1) Letter from Attorney Evans Huber dated September 30, 2021; and (2) estimated cost to relocate daycare provided by Glossa Engineering, dated December 15, 2021.

Peer Review on Traffic

- Exhibit 47 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated July 15, 2021, regarding traffic impact peer review.
- Exhibit 48 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated August 26, 2021, regarding traffic impact peer review.
- Exhibit 49 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated October 18, 2021, regarding traffic impact peer review.
- Exhibit 50 - Email thread between John Glossa and John Diaz, most recent email dated October 28, 2021.
- Exhibit 51 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated November 1, 2021, regarding traffic impact peer review, with accompanying marked up site plans from October 28, 2021.
- Exhibit 52 - Email from John Diaz, dated November 16, 2021.
- Exhibit 53 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated November 16, 2021, regarding traffic impact peer review.
- Exhibit 54 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated December 17, 2021, regarding traffic impact peer review.

Staff/Board Comments

- Exhibit 55 - Memorandum from the Design Review Board, dated March 22, 2021.
- Exhibit 56 - Memorandum from the Design Review Board, dated May 14, 2021.
- Exhibit 57 - Memorandum from the Design Review Board, dated August 13, 2021.
- Exhibit 58 - Interdepartmental Communication (“IDC”) to the Board from Tara Gurge, Health Department, dated March 24, 2021, April 27, 2021, August 9, 2021, August 16, 2021 (with attachment – “Environmental Risk Management Review,” prepared by PVC Services, LLC dated March 17, 2021), November 18, 2021 (with attachment of Board of Health 11/16/21 agenda), November 18, 2021 and December 16, 2021 (with attached Board of Health 12/14/21 agenda).
- Exhibit 59 - IDC to the Board from David Roche, Building Commissioner, dated March 22, 2021, and December 7, 2021.
- Exhibit 60 - IDC to the Board from Chief Dennis Condon, Fire Department, dated March 29, 2021, April 27, 2021, and August 9, 2021
- Exhibit 61 - IDC to the Board from Chief John J. Schlittler, Police Department, dated May 6, 2021.

- Exhibit 62 - IDC to the Board from Thomas Ryder, Assistant Town Engineer, dated March 31, 2021, May 12, 2021, August 12, 2021, September 2, 2021, November 16, 2021, December 6, 2021, and January 3, 2022.

Abutter Comments

- Exhibit 63 - Neighborhood Petition Regarding Development of 1688 Central Avenue in Needham, submitted by email from Holly Clarke, dated March 22, 2021, with excel spreadsheet of signatories.
- Exhibit 64 - Email from Robert J. Onofrey, 49 Pine Street, Needham, MA, dated March 26, 2021.
- Exhibit 65 - Email from Norman MacLeod, Pine Street, dated March 31, 2021.
- Exhibit 66 - Letter from Holly Clarke, 1652 Central Avenue, Needham, MA, dated April 3, 2021, transmitting “Comments of Neighbors of 1688 Central Avenue for Consideration During the Planning Board’s Site Review Process for that Location,” with 3 attachments.
- Exhibit 67 - Email from Meredith Fried, dated Sunday April 4, 2021.
- Exhibit 68 - Letter from Michaela A. Fanning, 853 Great Plain Avenue, Needham, MA, dated April 5, 2021.
- Exhibit 69 - Email from Maggie Abruzese, dated April 5, 2021.
- Exhibit 70 - Letter from Sharon Cohen Gold and Evan Gold, dated April 5, 2021.
- Exhibit 71 - Email from Matthew Heidman, dated May 10, 2021.
- Exhibit 72 - Email from Matthew Heidman, dated May 11, 2021 with attachment Letter directed to members of the Design Review Board, from Members of the Neighborhood of 1688 Central Avenue, undated.
- Exhibit 73 - Email from Rob DiMase, dated May 12, 2021.
- Exhibit 74 - Email from Eileen Sullivan, dated May 12, 2021.
- Exhibit 75 - Two emails from Eric Sockol, dated May 11 and May 12.
- Exhibit 76 - Email from Rob DiMase, dated May 13, 2021.
- Exhibit 77 - Email from Sally McKechnie, dated May 13, 2021.
- Exhibit 78 - Letter from Holly Clarke, dated May 13, 2021, transmitting “Response of Abutters and Neighbors of 1688 Central Avenue Project to the Proponent’s Letter of April 16, 2021,” with Attachment 1.
- Exhibit 79 - Email from Joseph and Margaret Abruzese dated May 17, 2021, transmitting the following:

Letter from Joseph and Margaret Abruzese, titled “Objection to Any Purported Agreement to Waive Major Project Review and/or Special Permit requirements with Regard to Proposed Construction at 1688 Central Avenue,” undated.

- Exhibit 80 - Letter directed to Kate Fitzpatrick, Town Manager, from Joseph and Margaret Abruzese, dated April 5, 2021.
- Exhibit 81 - Email from Lee Newman, Director of Planning and Community Development, dated May 17, 2021, replying to email from Sharon Cohen Gold, dated May 15, 2021.
- Exhibit 82 - Email from Meredith Fried, dated May 18, 2021.
- Exhibit 83 - Email from Lori Shaer, Bridle Trail Road, dated May 18, 2021.
- Exhibit 84 - Email from Sandra Jordan, 219 Stratford Road, dated May 18, 2021.
- Exhibit 85 - Email from Khristy J. Thompson, 50 Windsor Road, dated May 18, 2021.
- Exhibit 86 - Email from Henry Ragin, dated May 18, 2021.
- Exhibit 87 - Email from David G. Lazarus, 115 Oxbow Road, dated May 18, 2021.
- Exhibit 88 - Email from John McCusker, 248 Charles River Street, dated May 18, 2021.
- Exhibit 89 - Email from Laurie and Steve Spitz, dated May 18, 2021.
- Exhibit 90 - Email from Randy Hammer, dated May 18, 2021.
- Exhibit 91 - Letter from Holly Clarke, dated May 24, 2021, transmitting comments concerning the Planning Board meeting of May 18, 2021.
- Exhibit 92 - Email from Robert Onofrey, 49 Pine Street, dated May 25, 2021, with attachment (and follow up email May 26, 2021).
- Exhibit 93 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated June 8, 2021, transmitting document entitled “Needham Enterprise, LLC Application for Major Site Review Must be Rejected Because the Supporting Architectural Drawings are Filed in Violation of the State Ethics Code,” with Exhibit A.
- Exhibit 94 - Email from Barbara Turk, 312 Country Way, dated April 3, 2021, forwarded from Holly Clarke on June 14, 2021.
- Exhibit 95 - Email from Patricia Falcao, 19 Pine Street, dated April 4, 2021, forwarded from Holly Clarke on June 14, 2021.
- Exhibit 96 - Email from Leon Shaigorodsky, Bridle Trail Road, dated April 4, 2021, forwarded from Holly Clarke on June 14, 2021.

- Exhibit 97 - Letter from Peter F. Durning, Mackie, Shae, Durning, Counselors at Law, dated June 11, 2021.
- Exhibit 98 - Revised list of signatories to earlier submitted petition, received on June 11, 2021.
- Exhibit 99 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated June 11, 2021.
- Exhibit 100 - Email from Karen and Alan Langsner, Windsor Road, dated June 13, 2021.
- Exhibit 101 - Email from Stanley Keller, 325 Country Way, dated June 13, 2021. Email from Sean and Marina Morris, 48 Scott Road, dated June 14, 2021.
- Exhibit 102 - Letter from Holly Clarke, dated June 14, 2021, transmitting "Comments of Neighbors of 1688 Central Avenue for Consideration During the Planning Board's Site Review Process for that Location Concerning the Traffic Impact Assessment Reports."
- Exhibit 103 - Email from Pete Lyons, 1689 Central Avenue, dated June 14, 2021.
- Exhibit 104 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated June 14, 2021.
- Exhibit 105 - Email from Ian Michelow, Charles River Street, dated June 13, 2021.
- Exhibit 106 - Email from Nikki and Greg Cavanagh, dated June 14, 2021.
- Exhibit 107 - Email from Patricia Falcao, 19 Pine Street, dated June 14, 2021.
- Exhibit 108 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 6, 2021.
- Exhibit 109 - Email from David Lazarus, Oxbow Road, dated July 12, 2021.
- Exhibit 110 - Email from Maggie Abruzese, dated July 12, 2021.
- Exhibit 111 - Letter directed to Marianne Cooley, Select Board, and Attorney Christopher Heep, from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 12, 2021.
- Exhibit 112 - Email from Barbara and Peter Hauschka, 105 Walker Lane, dated July 13, 2021.
- Exhibit 113 - Email from Rob DiMase, dated July 14, 2021.
- Exhibit 114 - Email from Lee Newman, Director of Planning and Community Development, dated July 14, 2021, replying to email from Maggie Abruzese, dated July 14, 2021.
- Exhibit 115 - Email from Leon Shaigorodsky, dated July 17, 2021.

- Exhibit 116 - Letter directed to Members of the Planning Board, from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 28, 2021, regarding “Suspending Hearings Pending a Resolution of the Ethics Questions.”
- Exhibit 117 - Letter directed to Members of the Planning Board, from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 28, 2021, regarding “Objection to the Hearing of July 20, 2021.”
- Exhibit 118 - Letter from Holly Clarke, dated August 12, 2021, transmitting “The Planning Board Must Deny the Application as the Needham Zoning Bylaws Prohibit More than One Non-Residential Use or Building on a Lot in Single Residence A.”
- Exhibit 119 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated August 12, 2021, transmitting “The Authority of the Planning Board to Address Ethical Issues in the 1688 Central Matter.”
- Exhibit 120 - Email directed to the Select Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated August 13, 2021, transmitting “The Power and Duty of the Select Board to Address Ethical Issues in the 1688 Central Matter.”
- Exhibit 121 - Letter from Holly Clarke, dated August 13, 2021, transmitting “The Planning Board’s Authority to Regulate the Proposed Development of 1688 Central Avenue Includes the Authority to Reject the Plan.”
- Exhibit 122 - Letter from Patricia Falcao, dated August 30, 2021.
- Exhibit 123 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated August 25, 2021, with attachment regarding Special Municipal Employee status.
- Exhibit 124 - Email from Patricia Falcao, dated August 30, 2021.
- Exhibit 125 - Email from Daniel Gilmartin, 111 Walker Lane, dated August 30, 2021.
- Exhibit 126 - Email from Dave S., dated September 4, 2021.
- Exhibit 127 - Letter from Holly Clarke, dated September 7, 2021, transmitting “Neighbors’ Comments on the Traffic Impact Analysis,” with 2 attachments.
- Exhibit 128 - Email from Elizabeth Bourguignon, 287 Warren Street, dated September 5, 2021.
- Exhibit 129 - Letter from Amy and Leonard Bard, 116 Tudor Road, dated September 5, 2021.
- Exhibit 130 - Email from Mary Brassard, 267 Hillcrest Road, dated September 28, 2021.
- Exhibit 131 - Email from Christopher K. Currier, 11 Fairlawn Street, dated September 28, 2021.
- Exhibit 132 - Email from Stephen Caruso, 120 Lexington Avenue, dated September 28, 2021.
- Exhibit 133 - Email from Emily Pugach, 42 Gayland Road, dated September 29, 2021.

- Exhibit 134 - Email from Robin L. Sherwood, dated September 29, 2021.
- Exhibit 135 - Email from Sarah Solomon, 21 Otis Street, dated September 29, 2021.
- Exhibit 136 - Email from Lee Ownbey, 27 Powderhouse Circle, dated September 29, 2021.
- Exhibit 137 - Email from Emily Tow, dated September 29, 2021.
- Exhibit 138 - Email from Leah Caruso, dated September 29, 2021.
- Exhibit 139 - Email from Jennifer Woodman, dated September 29, 2021.
- Exhibit 140 - Email from Nancy and Chet Yablonski, dated September 29, 2021.
- Exhibit 141 - Email from Pamela and Andrew Freedman, 17 Wilshire Park, dated September 29, 2021.
- Exhibit 142 - Email from Dr. Jennifer Lucarelli, 58 Avalon Rd, dated September 29, 2021.
- Exhibit 143 - Email from Maija Tiplady, dated September 30, 2021.
- Exhibit 144 - Email from Ashley Schell, dated September 30, 2021.
- Exhibit 145 - Email from Kristin Kearney, 11 Paul Revere Rd, dated September 30, 2021.
- Exhibit 146 - Email from Dave Renninger, dated September 30, 2021.
- Exhibit 147 - Letter from Brad and Rebecca Lacouture, dated September 30, 2021.
- Exhibit 148 - Email from Kerry Cervas, 259 Hillcrest Road, dated September 30, 2021.
- Exhibit 149 - Letter from Holly Clarke, dated October 1, 2021, transmitting "The Past Use of the Property for Automobile Repairs and Other Non-Residential Purposes Merit Environmental Precautions to Insure the Safe Development and Use of the Property."
- Exhibit 150 - Email from Carolyn Walsh, 202 Greendale Avenue, dated September 30, 2021.
- Exhibit 151 - Email from Robert DiMase, 1681 Central Avenue, dated October 6, 2021.
- Exhibit 152 - Email from Elyse Park, dated October 6, 2021.
- Exhibit 153 - Email from R.M. Connelly, dated October 6, 2021.
- Exhibit 154 - Email from Eric Sockol, 324 Country Way, undated, received October 6, 2021.
- Exhibit 155 - Email from R.M. Connelly, dated October 9, 2021.
- Exhibit 156 - Email from Robert James Onofrey, 49 Pine Street, dated October 12, 2021 with attachment.

- Exhibit 157 - Letter from Holly Clarke, dated October 16, 2021, transmitting “Neighbor’s Comments on the Application of Needham Zoning By-Law 3.2.1.”
- Exhibit 158 - Email from R.M. Connelly, dated October 18, 2021.
- Exhibit 159 - Email from David Lazarus, Oxbow Road, dated October 19, 2021.
- Exhibit 160 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated October 27, 2021, transmitting “Objection to Use of Architectural Plans and Testimony 1688 Central Avenue.”
- Exhibit 161 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated November 1, 2021, transmitting “The Applicant Cannot Keep both the Barn and the New Building.”
- Exhibit 162 - Letter to the Planning Board from Denise Linden, undated, received November 4, 2021.
- Exhibit 163 - Email to the Planning Board from Khristy J. Thompson, Ph.D., dated November 10, 2021, with the following attachments discussing the impact of lead and other metals on the neurodevelopment of young children.
- Exhibit 164 - Letter from Holly Clarke, dated November 13, 2021, transmitting “The Proponent’s October 27, 2021 Report Again Changes the Data Used to Assess the Impact of the Project on Central Avenue.”
- Exhibit 165 - Letter from Holly Clarke, dated November 14, 2021, transmitting “Photographs and Video of Traffic on Central Avenue.”
- Exhibit 166 - Letter from Holly Clarke, dated November 14, 2021, transmitting “Commercial Child Care Facilities Do Not Customarily Have Accessory Buildings.”
- Exhibit 167 - Email from Joseph and Margaret Abruzese dated November 15, 2021, accompanying the following attachment:

Town of Canton, Massachusetts, Zoning Board of Appeals Decision, dated August 13, 2020, with Exhibits A, B, C and D.
- Exhibit 168 - Letter from Sharon Cohen Gold and Evan Gold, dated November 16, 2021.
- Exhibit 169 - Letter to the Planning Board from Elizabeth Bourguignon, 287 Warren St., dated, November 16, 2021.
- Exhibit 170 - Letter to the Planning Board from Carolyn Day Reulbach, 12 Longfellow Road, dated, December 2, 2021.
- Exhibit 171 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated December 6, 2021.
- Exhibit 172 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle

Trail Road, dated December 6, 2021, transmitting “Parking Requirements of Needham Zoning Bylaw.”

- Exhibit 173 - Letter from Pat Falcao, 19 Pine Street, received December 7, 2021.
- Exhibit 174 - Email from Rick Hardy, 1347 South Street, dated December 8, 2021.
- Exhibit 175 - Email from Laurie and Steve Spitz, dated December 7, 2021, transmitting video of traffic on Central Avenue.
- Exhibit 176 - Letter from Joe Abruzese, dated December 12, 2021, regarding his presentation from December 8, 2021 public hearing.
- Exhibit 177 - Email from Maggie Abruzese, dated December 12, 2021, transmitting the following as discussed at the December 8, 2021 public hearing:
 - a. “Lighting at 1688 Central Avenue” with Exhibits
 - b. Talking Points from December 8, 2021 hearing.
- Exhibit 178 - Letter from M. Patrick Moore Jr., and Johanna W. Schneider, Hemenway & Barnes, LLP, dated December 20, 2021.
- Exhibit 179 - Letter from Holly Clarke, dated December 18, 2021, transmitting comments from neighbors.

Miscellaneous

- Exhibit 180 - Email from Attorney Christopher H. Heep, dated June 9, 2021.
- Exhibit 181 - Two Emails from Attorney Christopher Heep, dated July 16, 2021.
- Exhibit 182 - Letter from Attorney Christopher H. Heep, dated September 2, 2021.
- Exhibit 183 - Letter from Attorney Christopher H. Heep, dated September 8, 2021.
- Exhibit 184 - Letter from Stephen J. Buchbinder, Schlesinger and Buchbinder, LLP, dated October 1, 2021.
- Exhibit 185 - Letter from Eve Slattery, General Counsel, Commonwealth of Massachusetts, State Ethics Commission, dated September 30, 2021.
- Exhibit 186 - Email from Evans Huber, dated October 7, 2021.
- Exhibit 187 - Email from Lee Newman directed to Evans Huber, dated October 8, 2021.
- Exhibit 188 - Letter from Eve Slattery, General Counsel, Commonwealth of Massachusetts, State Ethics Commission, dated October 4, 2021.
- Exhibit 189 - Email from Lee Newman directed to and replying to R.M. Connelly, dated October 19, 2021.

Exhibit 190 - Letter from Brian R. Falk, Mirick O’Connell, Attorneys at Law, dated October 27, 2021.

Exhibit 191 - Letter from Attorney Christopher H. Heep, dated November 2, 2021.

Exhibit 192 - Letter directed to Evans Huber from Lee Newman, Director, Planning and Community Development, dated November 10, 2021.

Legal Memorandum submitted after the close of the public hearing:

Exhibit 193 - Table prepared by Attorney Christopher H. Heep of Dover Amendment Cases regarding Child-care Facilities, undated.

Exhibit 194 - Email from Attorney Evans Huber, dated January 4, 2022.

Exhibit 195 - Letter from M. Patrick Moore Jr., and Johanna W. Schneider, Hemenway & Barnes, LLP, dated January 4, 2022.

Exhibit 196 - Sketch plan showing the barn demolished and proposed building relocated to a front yard setback of 135 with parking reconfigured to its rear. Drawing presented at the January 6, 2022 Planning Board meeting.

Exhibits 1, 2, 8, 9, 10, 11, 19, 20, 23, 26, 27, 28, 37, 41, and 45 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 Single Residence A District at 1688 Central Avenue, Needham, Massachusetts, and is shown on Needham Assessor’s Plan No. 199 as Parcel 213 containing 3.352 acres.
- 1.2 The subject property is presently improved by a single-family dwelling comprising 1,663 square feet, two smaller out-buildings, (garage comprising 400 square feet and second garage comprising 600 square feet,) and a barn comprising 4,800 square feet. The proposed project has evolved through a long series of changes to have the following key elements: ~~is to~~ demolish the single-family dwelling and the two garages at the property, construct a new one-story building of 10,034 square feet to house a child-care facility and retain the existing two-story 4,800 square foot barn to be used for accessory storage by the child-care facility, with a new parking area that includes the construction of 30 off-street surface parking spaces.
- 1.3 The proposed project provides access to the child-care facility at 1688 Central Avenue by using a 200-plus foot-long, 30-foot-wide access drive to Central Avenue, consisting of three lanes, an 8-foot-wide queueing lane that can accommodate ten waiting vehicles and which provides access to a drop-off and pick-up area, an 11-foot-wide entrance lane providing unimpeded access to the rear parking areas, and an 11-foot-wide exit lane.

- 1.4 The proposed project provides that the child-care facility will house an existing Needham child-care business, namely the ~~NCCeedham Children's Center~~.
- 1.5 The ~~NCC eedham Children's Center~~ preschool/daycare program will operate Monday through Friday, between the hours of 7:30 a.m. and 6:00 p.m., with a maximum of 115 children on the property at any one time.
- 1.6 The maximum number of ~~NCC eedham Children's Center~~ staff on site at any one time will be 18 broken down as follows. The projected total staff on peak days (Tuesdays-Thursday) will be 18 (16 staff and 2 administrators). The projected total staff on Monday will be 17 (15 staff and 2 administrators). The projected total staff on Friday will be 15 (13 staff and 2 administrators). At all times the child-care business will maintain compliance with any staffing standards or requirements determined by the relevant Commonwealth agency regulating such uses.
- 1.7 The By-Law does not contain a specific parking requirement for a child-care use. In cases where the By-Law does not provide a specific requirement, the required number of parking spaces shall be derived from the "closest similar use as shall be determined by the Building Commissioner," Section 5.1.2(20). In the event that the Building Commissioner is unable to determine that a proposed use relates to any use within Section 5.1.2, the Board shall recommend a reasonable number of spaces to be provided based on the expected parking needs of occupants, users, guests, or employees of the proposed business, with said recommendation based on the Institute of Transportation Engineers (ITE) Parking Generation Manual, 2nd Edition, or an alternative technical source determined by the Planning Board to be equally or more applicable. The Petitioner assessed the number of parking spaces needed to support the use of the site based upon the anticipated number of children and staff members at the site by utilizing the formula which the Town uses for this type of use, which is 8 spaces, plus 1 space for each ~~430~~ children, plus one space per staff member. (See ITE Journal of July 1994 entitled "Parking and Trip Generation Characteristics for Day-Care Facilities", by John W. Van Winkle and Colin Kinton). Applying this formula leads to a calculated parking requirement of ~~2930~~ spaces. The Petitioner is proposing 30 on-site parking spaces which more than satisfies the requirements of the By-Law.
- 1.8 The Petitioner has submitted a traffic analysis which evaluates the anticipated traffic impacts resulting from the proposed development of a child-care facility at 1688 Central Avenue (See Exhibits 8, 10, 11, 20, 26, 27, 28, and 37). The submitted traffic analysis was peer reviewed by the Town's traffic consultant, John W. Diaz of Greenman-Pedersen, Inc., GPI as detailed in Exhibits 47 through 54.

Specifically, the report provided by the Petitioner assesses traffic operational characteristics at the unsignalized Central Avenue intersection at the site driveway and at the signalized Central Avenue/Charles River Street intersection. Due to the Covid-19 pandemic, traffic levels from 2020 and 2021 have generally decreased and while slowly increasing are still below pre-2020, pre-pandemic levels. Massachusetts Department of Transportation (MassDOT) has developed guidelines for determining traffic volumes in the absence of current traffic data, the standard practice of which has been to use pre-2020 traffic data where possible and factor to current conditions based on historic growth rates. The Petitioner has followed this approach. With regard to the site driveway intersection, the Petitioner has utilized 2016 data provided by the Town along Central Avenue in the vicinity of the site and has factored growth volumes of 1% per year to

2021 for the existing condition and to 2028 for the Baseline or No-Build condition. With regard to the Central Avenue/Charles River Street intersection, the afternoon turning movement counts of 2016 were also expanded proportionately for the same analysis period. The morning counts here were not available at the Central Avenue/Charles River Street intersection but the evening peak hour period was more critical due to the predominate southbound movement and queuing implications during this period. Finally, rather than relying on operational data from the child-care operator to determine site traffic, the more conservative ITE land use calculations based on the square footage of the building were applied to the project to estimate site traffic.

- 1.9 The proposed project is expected to generate approximately 110 new morning peak hour trips with 58 in bound and 52 outbound. The project is also expected to generate approximately 112 new evening peak hour trips with 53 inbound and 59 outbound. The directional distribution of trips reflects the existing Central Avenue directional split of the Gan Aliyah Pre-School next door to the site at Temple Aliyah. The entering project traffic is distributed for 80% of the traffic to enter from the north (left turn in) and 20% of traffic to enter from the south (right turn in).
- 1.10 The level of service analysis conducted at the Central Avenue intersection at the site driveway shows a calculated “A” level of service for all north bound movements in the morning and evening peak periods and a calculated “B” level of service for all south bound movements in the morning and evening peak periods, both of which are acceptable for this type of facility. The site driveway itself will have an acceptable “E” level of service with average delay during the morning peak period and a “C” level during the evening peak period. The Central Avenue/Charles River Street intersection will continue to operate at an overall “F” level of service with an overall increase in delay of five seconds.
- 1.11 The Petitioner further reviewed the Central Avenue/Charles River Street intersection for the morning peak hour (7:15 a.m. to 8:15 a.m.) and for the evening peak hour (5:00 p.m. to 6:00 p.m.) to see if adjustments to signal timing at this location would lead to an improved level of service. For this analysis, supplemental counts were collected by the Petitioner on Wednesday, October 13, 2021, with those counts increased by 30.4% as evidenced by MassDOT Station ID #6161 to identify 2021 roadway network volumes at the intersection assuming Covid-19 had not occurred. These adjusted volumes were further inflated by one percent per year over seven years to account for normal growth between 2021 and 2028.
- 1.12 The following overall levels of service for the existing, base and build conditions for the studied signal optimization timing adjustments at the Central Avenue/Charles River Street intersection are detailed below. These conclusions assume the roadway network volumes have been adjusted upwards as described in 1.11 above. For the existing Covid-19-affected 2021 signal timing optimization condition, the Central Avenue/Charles River Street intersection operates at overall levels of service of “E” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “D” during the evening peak hour (5:00 p.m. to 6:00 p.m.). For the base 2028 signal optimization condition (2028 with no development at 1688 Central Avenue), the Central Avenue/Charles River Street intersection operates at overall levels of service of “F” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “E” during the evening peak hour (5:00 p.m. to 6:00 p.m.). These values show the overall levels of service will worsen somewhat compared to current conditions assuming there is no development at 1688 Central Avenue. For the build condition where signal

timing optimization is not implemented, the Central Avenue/Charles River Street intersection operates at overall levels of service of “F” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “F” during the evening peak hour (5:00 p.m. to 6:00 p.m.). These values show that development of 1688 Central will have essentially no impact on Central Avenue levels of service during peak hours and will have only a modest impact on Central Avenue southbound during those hours. The only significant impact is projected to be from Central Avenue southbound during the evening peak hour. Lastly, for the build condition where signal timing is optimized, the Central Avenue/Charles River Street intersection operates at overall levels of service “E” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “C” during the evening peak hour (5:00 p.m. to 6:00 p.m.). These values show that under the signal timing optimization condition studied, the overall levels of service (and delays) on Central Avenue during peak hours will become significantly better, while the delays and levels of service on Charles River Street would become worse. That said, the analysis demonstrates that meaningful mitigation on Central Avenue is attainable during the peak period with less significant timing changes implemented in the alternative and without causing a substantial impact on Charles River Street.

- 1.13 The Petitioner further reviewed queuing at the Central Avenue/Charles River Street intersection for the studied signal timing optimization conditions described in Section 1.12 above. This analysis shows that the 95th percentile queue on Central Avenue southbound during the evening will increase from 830 feet today (with non-Covid traffic volumes) to 907 feet in 2028 without the proposed development at 1688 Central Avenue and to 950 feet with the proposed development. Thus, comparing the 2028 “build” to “no build” conditions anticipates an increase in the length of the queue during the evening peak hour of about 43 feet (approximately 2-3 vehicles) if this project is developed as proposed. The roadway length between the site driveway and Charles River Street is 885 feet. The length of the queue in 2028 is projected to extend past the site driveway under either the “build” condition (950 feet) or “no build” condition (907 feet) further supporting a change in the timing of the signals. Implementation of the optimized signal timing adjustments at the Central Avenue/Charles River Street intersection as described in Section 1.12 above shortens the southbound queue from 830 feet today to only 670 feet, which is more than 200 feet south of the site driveway. Furthermore, a less substantial change to the signal timing can provide significant mitigation of the queueing from the intersection back to the site driveway.

- 1.14 The ~~NCCeedham Children's Center~~ has provided information detailing the number of children and cars anticipated to arrive at and leave the site, as well as proposed operating measures. The maximum total of 115 children arriving in the morning is broken down as follows: 55 infants, toddlers and preschoolers arriving in the morning peak drop-off period of 7:30 a.m. to 8:50 a.m.; 30 children who will not arrive until shortly before 9:00 a.m. or later; and 30 after-school children who will arrive in the afternoon. The maximum total of 115 children leaving in the afternoon is broken down as follows: 20 children from the nursery school at noon or 2:30 p.m.; 10 preschool children at 3:00 p.m.; and 85 children from 3:30 p.m. to 6:00 p.m. spaced evenly across a two-and-a-half-hour window. ~~NCC Needham Children's Center~~ staff will be on-site before the critical arrival and departure hours to assist children between vehicles and the building. Children being dropped off and picked up will be escorted into the building, and from the building into the parents’ cars, by ~~NCCeedham Children's Center~~ staff, to assure their safety.

- 1.15 Drop-off and pick-up times for all children will be staggered, to reduce queueing on the

site and to assure that queued vehicles do not negatively impact Central Avenue operations. To assure that queued vehicles could be accommodated on the site without negative impact to Central Avenue, an analysis based on the Poisson distribution model of random arrivals was conducted. Two scenarios were considered.

The first scenario considered was based on actual data from the anticipated operator as to the number of children (max 55) that will be arriving during the peak morning drop-off period, which is from 7:30 a.m. to 8:50 a.m. Another group of children (max 30) will arrive after this peak drop-off period because their programs do not start until 9:00 a.m. or later. The remaining children using the facility are after-school children (max 30) who will not arrive until the afternoon. In addition, years of data from the operator confirms that of the 55 children being dropped off during the peak 80-minute drop-off period, approximately 30 will be siblings, meaning these 30 children will arrive in 15 vehicles. The other 25 children will arrive in one vehicle per child. Lastly, the morning staff will either have arrived prior to the beginning of drop-off, or, if they arrive during the peak period, they will proceed directly to the rear parking area, will not be in the drop lane, and thus do not need to be considered in the queuing analysis.

The analysis included the following assumptions: (a) random arrivals during the peak drop-off period; (b) a drop-off period of 80 minutes; (c) 40 parent vehicles arriving during the 80-minute period; and (d) 60-second drop-off window. The evaluation concluded based on 40 peak hour arrivals that there would be no more than 7 vehicles in the drop-off lane. With the proposed driveway plan showing a dedicated queue/drop off lane, there is storage for approximately 10 vehicles before queues would impact Central Avenue. Furthermore, the queue lane has been separated from the travel lane, allowing vehicles to bypass the queue in the event it approaches Central Avenue.

In addition to the above scenario, a second more conservative analysis was run using the Poisson distribution methodology for a maximum of 58 vehicle arrivals during the peak period. This analysis found that the maximum queue would be approximately 13 vehicles under this unlikely condition and that even at 58 vehicles, 99% of the time the queue would be less than 10 vehicles.

- 1.16 The Traffic Impact Assessment submitted by the Petitioner has identified existing traffic operating parameters on Central Avenue and at the Central Avenue/Charles River Street intersection, estimated the anticipated traffic volume increase as a result of the proposed project, analyzed the project's traffic-related impacts, evaluated access and egress requirements, and recommended site access and intersection improvement measures to improve traffic operations and safety conditions in the area. To minimize traffic delays in the area, the following study recommendations have been incorporated in the Plan and will be implemented by the Petitioner: (a) A police detail shall be provided at the site driveway during the peak morning and afternoon hours of arrivals and dismissals. The detail will remain in place for a minimum of 60 days, commencing on or after the opening of the child-care facility. The detail may be discontinued thereafter upon request of the Petitioner and a finding by the Board (following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient) that the site is operating without significantly impacting operations along Central Avenue. (b) Prior to building permit issuance, the Petitioner shall provide detailed traffic signal timing plans for optimized operations at the Central Avenue/Charles River Street intersection for the morning and evening peak hours. The Petitioner shall further coordinate with the Town Engineer on how to implement the revised signal times. The Petitioner shall be

responsible for implementing any approved signal timing adjustments approved by the Town Engineer prior to building occupancy. (c) The Petitioner shall complete a follow-up traffic study after the site is open and operational to at least 80% of student capacity. The Petitioner shall further fund a peer review of this post occupancy traffic study. The Board finds that the foregoing elements of the Plan minimize traffic delays in the area and provide adequate access and egress operational conditions at the site driveway.

- 1.17 The Petitioner's proposal includes a new one-story building of 10,034 square feet that will house a child-care facility and an existing two-story 4,800 square foot barn that will be retained and used for accessory storage by the child-care facility. This proposal is not in compliance with the requirements of Section 1.2 and Section 3.2.1 of the By-Law as detailed below.

a. The By-Law prohibits having more than one non-residential building or use on a lot in the Single Residence A zoning district. The By-Law at Section 3.1 provides as follows: "No building or structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as regulated by Section 3.1.2 as permitted and set forth in Section 3.2". Section 3.2.1 of the By-Law sets forth a schedule of uses for the Single Residence A zoning district. In that schedule, it marks as "No" in the Single Residence A District the following use: "more than one non-residential building or use on a lot where such buildings or uses are not detrimental to each other and are in compliance with all other requirements of this By-Law". Under the By-Law in the Single Residence A zoning district there cannot be more than one non-residential building on a lot. The Petitioner's Plan does not conform with this aspect of the By-Law because it impermissibly contains more than one non-residential building on a lot in the Single Residence A zoning district. With the construction of a 10,034 square foot child-care building on this lot, the barn would be a second non-residential building on the lot.

b. The project's proposal for the barn further does not meet the By-Law's definition of an accessory building and the building cannot be permitted as such. The By-Law at Section 3.1 provides as follows: "No building or structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as regulated by Section 3.1.2 as permitted and set forth in Section 3.2". Section 3.2.1 of the By-Law sets forth a schedule of uses for the Single Residence A zoning district. In that schedule, it marks as "yes" in the Single Residence A District the following use: "other customary and proper accessory uses, such as, but not limited to, garages, tool sheds, greenhouses and cabanas". The barn does not meet the definition of an accessory building under the By-Law. The By-Law at Section 1.3 defines "accessory building" as: "a building devoted exclusively to a use subordinate and customarily incidental to the principal use". In this case, the primary use of the proposed main building is that of a 10,034 square foot stand-alone child-care facility. The two-story barn has a footprint of approximately 2,600 square feet and overall square footage of approximately 4,800 square feet. To qualify the barn as an accessory building, the Petitioner must establish that it is "customary" (more than unique or rare) for a child-care facility to have an accessory building the size of the barn for storage. In the subject case, the barn contains almost half the square footage of the child-care facility itself. The Petitioner has not provided evidence of any other child-care center in Needham or elsewhere that has a similar, separate, large building for storage; nor has the Petitioner made any other factual showing that would warrant a finding that barns of this size are subordinate to and customarily incidental to child-care facilities. In fact, a review of twenty child-care facilities in Needham and nearby towns makes clear that it is not customary for these facilities to have accessory buildings. The

twenty programs considered include the five Needham programs comparably sized to that of the ~~NCCeedham Children's Center~~, even if not situated in stand-alone commercial space, and fifteen child-care programs located in nearby towns. Each of these facilities was located through online mapping services to determine building arrangements. All these programs operate in a single building. None have accessory buildings much less one two stories high with a total of 4,800 square feet. Finally, the Massachusetts building requirements for child-care facilities do not call for such accessory buildings (See: 606 CMR 7.07).

1.18 As indicated in the Zoning Table shown on the Plan, the lot conforms to zoning requirements as to area and frontage of the Single Residence A District. As indicated in the Zoning Table shown on the Plan, the proposed building will comply with all applicable dimensional and density requirements of the Single Residence A District for an institutional use, namely, front, side and rear setback, maximum building height, maximum number of stories, maximum lot coverage, and maximum floor area ratio.

1.19 In addition to the above-noted minimum dimensional and density requirements of the Single Residence A District for an institutional use as detailed in Section 1.18, the project must also meet the site plan review criteria of the By-Law set forth in Section 7.4.6. The project before the Board shows deficiencies in two review categories namely Section 7.46(a) and Section 7.4.6(e) of the By-Law which provides that in conducting site plan review the Planning Board shall consider the following matters as follows:

“7.4.6(a) Protection of adjoining premises against seriously detrimental uses by provision of surface water drainage, sound and sight buffers and preservation of views light and air; and

7.46(e) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of the By-Law.”

1.20 The Petitioner seeks approval to place a large institutional building of 10,034 square feet 64 feet from Central Avenue and to raise the property's grade by six feet. The Board finds placement of a large institutional building closer to the street than other buildings in the neighborhood is out of character with the surrounding neighborhood and conflicts with the Town's interest in preserving the appearance of its residentially-zoned neighborhoods.

The proposed building is significantly larger than surrounding homes; it is closer to the street than any other building on this section of Central Avenue, and its grade is higher. In this residential area, no residential building is set back less than 65 feet from Central Avenue, and the clear pattern is for structures to be set back much further. A comparison of 11 abutting residential properties along Central Avenue shows a 65-foot front yard setback for one residential property with the remainder ten properties presenting with front yard setbacks in the range of 103 feet to 117 feet. For the one institutional use in the neighborhood, namely, Temple Aliyah, which abuts the subject property, a front yard setback of 213 feet is provided. Further, the Design Review Board's comments on the project call for the building to be re-sited farther back from Central Avenue consistent with the neighborhood context, either by reconfiguring it or by removing the barn.

The current front yard setbacks along Central Avenue create more visual space along the street edge and contribute to the established residential appearance of the neighborhood. Siting the project in accordance with the established neighborhood pattern would be in harmony with the existing configuration and would protect the character of the neighborhood per Section 7.46(e) of the By-Law. A larger setback would help to create a buffer from the proposed use, increasing both visual screen and protection from noise, activities and traffic for abutters and neighbors. Lengthening the driveway would make vehicle overflows onto Central Avenue less likely by moving on-site traffic further onto the lot and would create a longer driveway to help avoid any vehicle queuing from spilling over to Central Avenue.

The municipal interests served by increasing the project's front yard setback are extremely important. The lot has plenty of space to accommodate these legitimate concerns by adjusting the front yard setback for the proposed building deeper onto the lot. Massachusetts General Laws Chapter 40A, Section 3 permits regulation of a child-care facility relating to both setback and bulk, among other criteria.

- 1.21. Under Massachusetts General Laws, Chapter 40A, Section 3 (Dover Amendment) the use of the property for a child-care facility is protected. Massachusetts General Laws, Chapter 40A, Section 3 provides that: "No zoning ordinance or bylaw in any ...town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary ...purpose of operating a child-care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setback, open space, parking and building coverage requirements.

Where the Petitioner proposing a child-care facility seeks exceptions from otherwise applicable zoning requirements, that Petitioner bears the burden of proving that the local requirements are unreasonable as applied to its proposed project. This burden may be met by demonstrating that compliance would substantially diminish or detract from the usefulness of the proposed structure, or significantly impede the use without appreciably advancing the municipality's legitimate concerns. The Petitioner has not met this burden. Specifically, as relates the barn on the property, the Petitioner initially indicated that the barn would not be used in connection with the child-care facility; indeed, the Petitioner planned to exclude the barn from the lease entirely. Now, however, the Board is told that the child-care facility requires the barn - a structure that is more than twice the size of the average residence in Needham - to be available for storage. Further, the Petitioner's more recent submission of December 16, 2021 (Exhibit 46) claims that unless the barn is allowed to remain on the site, the Board will have "de facto denied" a permit. The Petitioner has stated on the record that it is their desire to keep the barn that is now causing them to say that it will only be used for child-care storage. While ~~NCC Needham Children's Center~~ now professes a need for storage, the Petitioner has not shown any reason for the child-care facility to have storage in this particular configuration. There is no reason that the Petitioner could not incorporate adequate storage into a single building with the child-care facility. There is no need for storage to be separate and apart from the child-care facility. The Board finds that applying the By-Law (specifically Section 3.2.1) prohibiting two non-residential structures on this residential property does not unreasonably impede the operation of the child-care facility, particularly when the child-care facility, as initially proposed would not have used the barn at all. The Dover Amendment is not intended to allow the Petitioner to: (i) propose a 10,034 square foot new building; (ii) irrespective of the By-Law provisions that preclude the new structure

and barn on the same parcel; and (iii) ~~the~~^{an} claim that the cost of removing the barn and redesigning the Plan is an unreasonable impediment, when that cost derives from the Petitioner's own initial planning choices.

1.22. The Board of Health reviewed the subject application and has noted its intent to impose the following conditions on the project:

a. Prior to demolition, submittal by Petitioner of an online Demolition permit form along with required supplemental demolition reports, including septic system abandonment form and final pump report.

b. Engagement by the Petitioner of a licensed pest control service company to conduct routine site visits to the site, first initially to bait the interior/exterior of each structure to be raised prior to demolition, and to continue to make routine site visits (to re-bait/set traps) throughout the duration of the construction project. Pest reports to be submitted to the Health Division on an on-going basis for review.

c. If the project triggers the addition of any food to be served or prepped on site at the facility, a food establishment permit is required to include a review of proposed kitchen layout plans, with equipment and hand sinks noted, along with any proposed seating layout plans where applicable.

d. Petitioner to ensure that sufficient exterior space is provided to accommodate an easily accessible Trash Dumpster and a separate Recycling Dumpster, per Needham Board of Health Waste Hauler regulation requirements. These covered waste containers must be kept clean and maintained and shall be placed on a sufficient service schedule to contain all waste produced on site. These containers may not cause any potential public health and safety concerns with attraction of pest activity due to improper cleaning and maintenance.

e. As noted in the proposal, the Petitioner is required to connect to the municipal sewer line, once it is brought up to the property, prior to building occupancy. A copy of the completed signed/dated Sewer Connection application, which shows that the sewer connection fee was paid, shall be forwarded to the Public Health Division.

f. No public health nuisance issues (i.e., odors, noise, light migration, standing water/improper on-site drainage, etc.), to neighboring properties, shall develop on site during or after construction.

g. The lighting on site shall not cause a public health nuisance, with lighting trespassing on to other abutting properties. If complaints are received, lighting shall be adjusted so it will not cause a public health nuisance.

h. The Petitioner shall meet current interior/exterior COVID-19 federal, state and local requirements for spacing of seating, HVAC/ventilation, face covering requirements, sanitation requirements and occupancy limit requirements, etc.

i. The Petitioner shall ensure that the property is safe, which includes conducting proper soil testing of the site prior to construction, and also follow through with any necessary mitigation measures as found to be necessary, as part of this project approval.

1.23 The Board of Health will engage an independent third party, licensed site professional to conduct an independent environmental evaluation of the property. The licensed site professional will oversee the project and shall confirm that the soil testing work, along with the proposed capping work to be conducted, meets all local, state and federal requirements. The licensed site professional will conduct a complete site assessment, provide their recommendations on whether soil testing is required and what types of testing needs to be conducted due to the history of this site. This licensed site professional will also: (a) determine whether and what type of barrier or capping

measures may be necessary on this site; (b) offer guidance on what mitigations are necessary in the event the soil is found to be contaminated; (c) offer guidance on what mitigations to the new building will be required to ensure the building air quality is adequate and safe; and (d) offer their guidance on what will be required going forward to ensure the site is deemed safe for the children at this new child-care facility.

- 1.24 The Design Review Board reviewed the project and issued review memoranda dated March 22, 2021, May 14, 2021, and August 13, 2021.
- 1.25 The proposed project, as modified by this Decision, has been designed to protect adjoining premises from detrimental impacts by provision for surface water drainage, sound and sight buffers, and preservation of views, light, and air. The Board, in Sections 2.0 and 2.1 of this Decision, has requested modification of the Plan to address the zoning deficiencies detailed in Sections 1.17, 1.19, 1.20 and 1.21 above. As noted in the stormwater management report prepared by Glossa Engineering, the drainage plan will capture all the runoff from the building rooftops and most of the runoff from the paved areas and will direct the runoff into an underground infiltration basin. The design and analysis of the system is based on Massachusetts Department of Environmental Protection (Mass DEP) stormwater management regulations. A landscape plan has been developed for screening and enhancing the existing site. The lighting system for the project parking areas has been designed to comply with the Town of Needham lighting requirements. The parking area is on the side of the property adjacent to Temple Aliyah and is not close to the residential properties abutting the southern boundary of the property. No light "spillage" onto neighboring residential properties is permitted other than from headlights of departing vehicles during dusk/dawn hours in the Winter months.
- 1.26 The proposed project will ensure the convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets. As shown on the Plan, the project has been designed to ensure that there will be safe vehicular and pedestrian circulation on site. The access to and egress from the property will be via the existing driveway opening onto Central Avenue, where there are adequate sight lines up and down Central Avenue. Access to the child-care facility will use a 200-plus foot-long, 30-foot-wide access drive to Central Avenue, consisting of three lanes: an 8-foot-wide queueing lane that can accommodate ten waiting vehicles and which provides access to a drop-off and pick-up area; an 11-foot-wide entrance lane providing unimpeded access to the rear parking areas, and an 11-foot-wide exit lane. The parking area has been designed with an "island" that vehicles can circulate around so that vehicles dropping off and picking up children can continuously move forward upon entry, following drop-off and pickup, and when exiting the site. Drop-off and pick-up times for all children will be staggered, to reduce queueing on the site and to assure that queued vehicles do not negatively impact Central Avenue operations. To this end, the operator will regularly review its drop-off and pick-up schedule and will enforce such schedule among its customers.
- 1.27 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been achieved. The proposed parking area complies with the Town of Needham By-Law requirements for number of spaces, illumination, loading, parking space size, location, design and number of handicap spaces, width of maneuvering aisles, setbacks, and landscaping. The parking area includes 30 spaces, which is the required number of spaces for the proposed use and the anticipated number of children and staff members. The required parking calculation is based on a

formula the Town uses for this type of use, which is 8 spaces, plus 1space for each 40 children, plus one space per staff member. Applying this formula leads to a calculated parking requirement of ~~3290~~ spaces.

- 1.28 Adequate methods for disposal of refuse and waste will be provided. The project is not a major generator of refuse or other wastes. The project's waste system is connected to the municipal sewerage system. The site has been designed such that adequate methods of disposal of refuse resulting from the proposed use has been assured. A dumpster will be located at the far (eastern) end of the parking area and will be enclosed with fencing. Refuse will be regularly removed from the site by a licensed hauler.
- 1.29 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area follow the requirements of the By-Law. The Board in Sections 2.0 and 2.1 of this Decision has requested modification of the Plan to address the zoning deficiencies detailed in Sections 1.17, 1.19, 1.20 and 1.21 above. The matters to be considered by this Board in connection with relationship of structures and open spaces to the natural landscape, existing buildings, and other community assets in the area, have been addressed with the Plan modifications detailed in Sections 2.0 and 2.1, and the project complies with all other requirements of the Town By-Law. The gross floor area of the building is 10,034 square feet on one floor and is smaller than what would be allowed by the applicable maximum lot coverage (15%) and the applicable FAR (.30) for the Single Residence A District. In addition, this building is considerably smaller than the abutting Temple Aliyah. Further, the parking will be in the rear of the building.
- 1.30 The proposed project will not have any adverse impact on the Town's resources, including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The proposed use will not result in an increased demand or adverse impact on the Town's resources. The Petitioner will connect to the Town's sewer system by running, at the Petitioner's expense, a sewer main from its current closest point on Country Way, up Central Avenue to the site. Neighboring properties will have the option of connecting, at their expense, to this sewer line. The project will connect to the Town's water supply system which has adequate capacity to service the development. The Petitioner has engaged a traffic engineer to study this site and will implement the traffic mitigations measures detailed in Section 1.16.
- 1.31 The Board finds the Plan, as modified by this Decision, the Traffic and Parking Report, and the other documents submitted in connection with the application, supports Major Project Site Plan approval under By-Law Section 7.4.
- 1.32 Under Section 7.4 of the By-Law, a Major Project Site Plan Decision may be granted within the Single Residence A District provided the Board finds that the proposed use of the property by the Petitioner meets the standards and criteria set forth in the provisions of the By-Law. Based on the above findings and conclusions the Board finds the proposed Plan, as modified, conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.

THEREFORE, the Board voted 4-0 to GRANT the requested Major Project Site Plan Review

Decision under Section 7.4 of the Needham By-Law 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 Commissioner 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 Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit seven copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 The Plan shall be modified to include the requirements and recommendations of the Department of Public Works as set forth below. The modified plans shall be submitted to the Department of Public Works for review and comment, and to the Board for approval and endorsement. All requirements and recommendations of the Department of Public Works, set forth below, shall be met by the Petitioner.
 - a. The plan shall be revised to show an ADA-compliant sidewalk along the entire frontage of the property.
 - b. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced below the 30-space minimum parking space requirement. A snow storage plan shall be submitted which shows compliance with this condition and which prevents melted snow piles infiltrating abutting properties.
- 2.1 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. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
 - a. The Plan shall be revised to show a wooden fence at the south side of the building rather than the proposed white vinyl fence.
 - b. The exterior lighting plan shall be revised at the north side of the driveway to show four pole lights rather than the proposed three pole lights with the height of the poles reduced from 24 feet to 20 feet.
 - c. The exterior lighting plan shall be further revised, and an updated photometric plan submitted, to demonstrate that the exterior lighting complies with building code and zoning requirements and does not show light trespass onto abutting properties.
 - d. The Plan shall be revised to demolish or remove from the property the barn and to relocate the proposed building and associated fencing another 71 feet back from Central Avenue to a minimum front yard setback of 135 feet in accordance with the sketch plan shown as Exhibit 196. The drop-off area, five parking spaces, loading area and turnaround immediately beside the rear of the building are to retain their current design and placement beside the rear of the relocated building. The remainder

25 parking spaces may be reconfigured behind the relocated building. Parking on the property shall respect a 50-foot minimum setback distance along the southern property line. Parking on the property shall not be located ~~less~~^{more} than 280 feet from the property's front yard lot line on Central Avenue. All parking shall be located behind the building. The Petitioner shall have the discretion to increase the parking spaces available on the property from 30 spaces up to a maximum of 41 spaces by increasing the 25-space parking area to 36 spaces as shown on Exhibit 196. The drainage plan and storm water report shall be updated to reflect the above-noted modifications.

CONDITIONS

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 3.44 hereof.

- 3.1 The Board approves the Plan, as modified by this Decision, submitted by the Petitioner and authorizes the use of the property for one child-care facility at the premises with a maximum number of children of 115.
- 3.2 The operation of the proposed child-care facility at 1688 Central Avenue, Needham, Massachusetts, shall be as described in Sections 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15 and 1.16 of this decision and as further described under the support materials provided under Exhibits 1, 2, 8, 9, 10, 11, 19, 20, 23, 26, 27, 28, 37, 41, and 45 of this decision. Any changes of such above-described use shall be permitted only by amendment of this approval by the Board.
- 3.3 The hours of operation of the child-care facility shall be limited to 7:00 am to 6:00 pm Monday through Friday. No child-care operations shall be allowed on Saturday or Sunday.
- 3.4 The maximum number of children present at the child-care facility at any given time shall not exceed 115. The maximum number of child-care employees or staff inclusive of teachers, instructors and administrators present at any given time shall not exceed 18.
- 3.5 The Petitioner shall obtain and maintain compliance with all licenses required for its operation of the child-care facility.
- 3.6 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.
- 3.7 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. The building shall be used exclusively as a child-care facility. The floor plans may be modified without further review by the Board, provided that the building footprint and the square footage of the building is not increased, the maximum number of children participating in classes at any given time is no greater than 115 and the maximum number of child-care staff present at any given time is no greater than 18. All other changes, revisions or modifications to the Plan, as modified by this decision, shall require approval

by the Board.

- 3.8 All buildings and land constituting the property shall remain under a single ownership and the property shall not be further subdivided.
- 3.9 Sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this Decision, and there shall be no parking of motor vehicles off the locus at any time. No on-site events shall cause an overflow of parking off-site onto neighboring streets.
- 3.10 A total of a minimum of 30 parking spaces and a maximum of 41 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.
- 3.11 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.
- 3.12 The Petitioner shall manage parking and traffic flow as presented with the application, and shown on the Plan, so that there is no back up of cars on Central Avenue waiting to enter the parking lots or drop-off area used by the Petitioner. If back up is a problem, the Petitioner shall take measures to eliminate any backup, such as to assign employees or staff to monitor traffic flow, student drop off or pick up or adjustment of the periods of drop off/pick up including maintaining a police detail, among other options.
- 3.13 If the Petitioner is notified by the Planning Board, based on reliable observations reported to the Planning Board, of frequent or chronic backup of vehicles onto Central Avenue from the child-care facility, it shall promptly propose, in writing to the Planning Board, a plan to remedy the situation and following Board approval shall execute the approved plan without delay.
- 3.14 As detailed in Section 1.16 of this Decision, the Petitioner shall implement the following traffic mitigation measures: (a) The Petitioner shall be responsible for securing and paying for a police detail for traffic control at the site driveway during the morning hours of 7:30 a.m. to 9:30 a.m. and the afternoon hours of 3:30 p.m. to 6:00 p.m. The detail shall remain in place for a minimum of 60 days. The detail may be discontinued thereafter upon request of the Petitioner and a finding by the Board (following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient) that the site is operating without significantly impacting operations along Central Avenue. (b) Prior to building permit issuance, the Petitioner shall provide detailed traffic signal timing plans to the Department of Public Works (DPW) for optimized operations at the Central Avenue/Charles River Street intersection for the morning and evening peak hours. The Petitioner shall further coordinate with the Town Engineer on how to implement the revised signal timings. The Petitioner shall be responsible for implementing and paying for any approved signal timing adjustments approved by the Town Engineer prior to building occupancy. (c) The Petitioner shall

complete a follow-up traffic study after the site is open and operational to at least 80% of student capacity. The Petitioner shall further pay the reasonable fees of any consultants/peer reviews required for review or implementation of the above noted items.

- 3.15 The Petitioner shall not exceed the Maximum Trip Count as follows: The total Maximum Trip Count for the child-care facility is 110 ~~trips~~~~vehicles~~ during the weekday morning peak hour and 112 ~~trips~~~~vehicles~~ during the weekday evening peak hour. The Petitioner shall prepare, submit and implement a Transportation Demand Management Work Plan (the "TDM Work Plan"), that includes strategies and measures necessary to comply with the Maximum Trip Count. The TDM Work Plan shall be submitted to the Board for review and approval prior to the issuance of the building permit.
- 3.16 The Petitioner shall be responsible for verifying compliance with the Maximum Trip Count, if so requested by the Board. Such trip counts shall be conducted by a qualified professional in accordance with standard engineering methodology. The Petitioner shall be responsible for the cost of all trip counts, surveys, and required analysis. If the Maximum Trip Count is exceeded, the Petitioner shall submit a revised TDM Work Plan to the Planning Board for review and approval that shall include a narrative of how the changes to the TDM Work Plan will reduce the number of vehicular trips during peak hours and a detailed proposal of how current operations will be adjusted to secure compliance with the Maximum Trip Count standard. The Petitioner shall pay the reasonable fees of any consultants/peer reviews as are necessary for the Board to review and analyze any submitted TDM Work Plans or TDM Monitoring Reports.
- 3.17 In the event that traffic or parking problems caused by the use of the property develop that are inconsistent with what was represented to the Board at the hearing and that adversely affect the neighbors on Central Avenue, the Board may modify this Decision by imposing additional conditions in accordance with the provisions of Section 4.2.
- 3.18 The Petitioner shall be responsible for implementing and complying with the requirements of the Board of Health as detailed in Section 1.22 and Section 1.23 of this Decision.
- 3.19 The initial operator of the child-care facility at 1688 Central Avenue shall be the ~~NCCeedham Children's Center~~. The Petitioner shall provide a copy of the lease agreement between the Petitioner and the ~~NCCeedham Children's Center~~ which confirms this operational arrangement. The operation of the child-care facility at 1688 Central Avenue by the ~~NCCeedham Children's Center~~, 858 Great Plain Avenue, Needham, MA, may not be transferred, set over, or assigned by the Petitioner, to any other person or entity without such person or entity certifying they have read and understood this decision and agreeing to maintain compliance with all aspects of this decision, and 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. Notwithstanding the above, this permit may be transferred to an affiliated entity (under common control with the ~~NCCeedham Children's Center~~) without Board approval or action, provided the Board is provided with a copy of the name and address of such entity.
- 3.20 All utilities, including telephone and electrical service, shall be installed underground from the street line.

- 3.21 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit, with impact fee paid if applicable.
- 3.22 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit and any grants of location that are required from the utility companies. In accordance with the recommendations of the Needham Department of Public Works Central Avenue shall be repaved gutter to gutter in the area impacted by the sewer installation after its installation has been completed.
- 3.23 The Petitioner shall secure from the Needham Department of Public Works a Water Main and Water Service Connection Permit pursuant to Town requirements.
- 3.24 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges. Sealing of abandoned drainage facilities and abandonment of all utilities shall be carried out pursuant to Town requirements.
- 3.25 The Petitioner shall connect the sanitary sewer line only to known sources. All known sources that cannot be identified shall be disconnected and properly sealed.
- 3.26 The construction, operation and maintenance of any 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 Select Board.
- 3.27 The maintenance of site and parking lot landscaping shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.28 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.
- 3.29 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.
- 3.30 All solid waste shall be removed from the site by a private contractor. The Petitioner shall obtain the necessary snow removal services to keep the parking lot, handicapped space, driveway, and circular drive passable by vehicles and safe. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced and any on-site snow piles shall not infiltrate an abutting property as such snow piles melt.
- 3.31 All deliveries and trash dumpster pick up shall occur only between the hours of 9:30 a.m. and 4:00 p.m., Monday through Saturday, not at all on Sundays and holidays. The dumpster shall be screened with a wooden fence, which shall be maintained in good condition. The dumpster shall be emptied, cleaned and maintained to meet Board of Health standards.
- 3.32 All lights shall be shielded and adjusted during the evening hours to prevent any annoyance or trespass to the neighbors. The Petitioner shall adjust its driveway and

parking lot lights during the night and early morning. Between the hours of 8:00 p.m. and 9:00 p.m., the Petitioner shall shut off the driveway and parking lot lights using the lights on the building to shine down and provide basic security. The building lights shall be set at a low light level to prevent any annoyance to the neighbors.

- 3.33 An ADA- compliant sidewalk shall be installed along the entire frontage of the property with the final design approved by the Town Engineer.
- 3.34 In constructing and operating the proposed building on the locus pursuant to this ~~Decision~~Special Permit, due diligence shall be exercised, and reasonable efforts shall be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.35 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.
- 3.36 All construction staging shall be on-site. 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 Commissioner. No construction parking shall be on public streets.
- 3.37 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 that 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 Commissioner and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Central Avenue.
 - d. The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Central Avenue clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.38 No building permit shall be issued in pursuance of this Decision 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 Commissioner.

- b. A construction management and staging plan shall have been submitted to the Police Chief and Building Commissioner for their review and approval.
 - c. The Petitioner shall have submitted detailed traffic signal timing plans to the DPW for the Central Avenue/Charles River Street intersection as outlined in Section 3.14 of this decision.
 - d. The Petitioner shall have submitted the Transportation Demand Management Work Plan to the Board as outlined in Section 3.16 of this decision.
 - e. The Petitioner shall have submitted a letter to the DPW identifying the measures selected and dates by which the NPDES requirements outlined in Section 3.29 of this decision will be completed.
 - f. The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Decision granting this 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.
- 3.39 No building or structure, or portion thereof, subject to this 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 Commissioner 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 Commissioner a Certificate of Compliance signed by a registered architect upon completion of construction.
 - d. There shall be filed with the Board and Building Commissioner 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. There shall be filed with the Board a statement by the Engineering Division of DPW that the Petitioner has implemented the Town approved signal timing adjustments at the Central Avenue/Charles River Street intersection as detailed in Section 3.14.

- f. There shall be filed with the Building Commissioner a statement by the Board approving the final off-site traffic improvements.
 - g. The Petitioner shall have submitted a copy of the lease agreement between the Petitioner and the ~~NCCeedham Children's Center~~ which confirms the initial operator of the child-care facility at 1688 Central Avenue to be the ~~NCC eedham Children's Center~~ as outlined in Section 3.19 of this decision.
 - h. There shall be filed with the Board a statement by the Engineering Division of DPW that the Petitioner has met the NPDES requirement as detailed in Section 3.29 of this decision.
 - i. The ADA- compliant sidewalk shall have been installed along the entire frontage of the property as detailed in Section 3.33 of this decision.
 - j. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Commissioner may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.
- 3.40 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 Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health, and the Massachusetts Department of Early Education and Care.
- 3.41 Any blasting conducted at the property shall require approval by the Needham Fire Department in accordance with Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00.
- 3.42 No building or structure authorized for construction by this ~~Decision~~~~permit~~ shall be occupied or used, and no activity except the construction activity authorized by this ~~Decision~~~~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 Commissioner.
- 3.43 The Petitioner, by accepting this 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.
- 3.44 Violation of any of the conditions of this ~~Decision-Special-Permit~~ shall be grounds for revocation of this Decision, or of any building permit or certificate of occupancy granted hereunder. In the case of violation of the continuing obligations 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 Owner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure

continuously, the permit granting authority may, after notice to the Owner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of this Decision. As an alternative, the Town may enforce compliance with the conditions of this decision by an action for injunctive relief before any court of competent jurisdiction. The Owner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this ~~Decision~~ permit.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this ~~Decision~~ permit is limited as follows:
- 4.1 This ~~Decision~~ 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 ~~Decision~~ 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 Decision 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 Review Decision shall lapse on February 1, 2024, 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 February 1, 2022. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun except for good cause.
- 4.8 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 Review Decision 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 Decision does so at the risk that a court will reverse the ~~Decision~~permit and that any construction performed under the ~~Decision~~permit may be ordered undone.

The provisions of this Decision 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 February, 2022

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Needham Enterprises, LLC, 105 Chestnut Street, Suite 28, Needham, MA, 02492, for Property located at 1688 Central Avenue, 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 Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board
Evans Huber

DECISION
February 1, 2022

MAJOR PROJECT SITE PLAN REVIEW DECISION
Needham Enterprises, LLC
1688 Central Avenue, Needham, MA
Application No. 2021-02

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

DECISION of the Planning Board (hereinafter referred to as the “Board”) on the application of Needham Enterprises, LLC, 105 Chestnut Street, Suite 28, Needham, MA, (to be referred to hereinafter as the “Petitioner”) for property located at 1688 Central Avenue, Needham, Massachusetts (hereinafter referred to as the “property”). The property is shown on Needham Assessor’s Plan No. 199 as Parcel 213 containing a total of 3.352 acres and is located in the Single Residence A District.

This decision is in response to an application submitted to the Board on May 20, 2021, by the Petitioner for: (1) Major Project Site Plan Review under Section 7.4 of the Needham Zoning By-Law (hereinafter the By-Law).

The requested Major Project Site Plan Review relates to, and allows the Planning Board to impose restrictions upon, the Petitioner building a new child-care facility that will house an existing Needham child-care business, Needham Children’s Center, Inc., a Massachusetts Corporation (hereinafter “NCC”). The property is presently improved by a two-story residential building (single-family dwelling comprising 1,663 square feet), two smaller out-buildings (garage comprising 400 square feet and second garage comprising 600 square feet) and a barn comprising 4,800 square feet. The proposed project is to demolish the single-family dwelling and the two garages at the property. A new one-story building of 10,034 square feet will be constructed, to house the child-care facility. Pursuant to the proposed project, the existing 4,800 square foot barn at the property would be retained and used for accessory storage by the child-care facility. A new parking area that includes 30 off-street surface parking spaces will also be constructed.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted, and mailed to the Petitioner, abutters, and other parties in interest, as required by law, the hearing was called to order by the Chairman, Paul S. Alpert, on Monday, June 14, 2021, at 7:20 p.m. via remote meeting using Zoom ID 826-5899-3198. No testimony was taken at the June 14, 2021, public hearing and the public hearing was continued to Tuesday, July 20, 2021, meeting held via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, August 17, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Wednesday September 8, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, October 5, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, October 19, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, November 2, 2021, via remote meeting using Zoom ID 826-5899-3198. The public hearing was continued to Tuesday, November 16, 2021, via remote

meeting using Zoom ID 826-5899-3198. The public hearing was continued to Wednesday December 8, 2021, via remote meeting using Zoom ID 826-5899-3198. Board members Paul S. Alpert, Adam Block, Jeanne S. McKnight, and Martin Jacobs were present throughout the proceedings. No testimony was taken at the June 14, 2021, public hearing, August 17, 2021, public hearing and October 19, 2021, public hearing. Board member Natasha Espada recused herself from the deliberations. The record of the proceedings and submissions upon which this approval is based may be referred to in the office of the Board.

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

Applicant submittals. Application, Memos, Plans, Traffic Studies, Drainage. Etc.

- Exhibit 1 - Properly executed Application for Site Plan Review for: (1) A Major Project Site Plan under Section 7.4 of the Needham By-Law, dated May 20, 2021.
- Exhibit 2 - Letter from Matt Borrelli, Manager, Needham Enterprises, LLC, dated March 16, 2021.
- Exhibit 3 - Letter from Attorney Evans Huber, dated March 11, 2021.
- Exhibit 4 - Letter from Attorney Evans Huber, dated March 12, 2021.
- Exhibit 5 - Letter from Attorney Evans Huber, dated March 16, 2021.
- Exhibit 6 - Architectural plans entitled "Needham Enterprises, Daycare Center, 1688 central Avenue," prepared by Mark Gluesing Architect, 48 Mackintosh Avenue, Needham, MA, consisting of 4 sheets: Sheet 1, Sheet A1-0, entitled "1st Floor Plan, dated March 8, 2021; Sheet 2, Sheet A1-1, entitled "Roof Plan," dated March 8, 2021; Sheet 3, Sheet A2-1 showing "Longitudinal Section," "Nursery/Staff Room Section," "Toddler 1/ Craft Section at Dormer," and "Playspace/Lobby Section," dated March 8, 2021; and Sheet 4, Sheet A3-0, showing "North Elevation," "West Elevation," "East Elevation," and "South Elevation," dated March 8, 2021.
- Exhibit 7 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 10 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020; Sheet 3, entitled "Site Plan," dated June 22, 2020; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020; Sheet 6, entitled "Construction Details," dated June 22, 2020; Sheet 7, entitled "Construction Details," dated June 22, 2020; Sheet 8, entitled "Sewer Extension Plan and Profile," dated November 19, 2020; Sheet 9, entitled "Construction Period Plan," dated June 22, 2020; Sheet 10, entitled "Appendix, Photometric and Site Lighting," dated June 22, 2021, **all plans stamped January 26, 2021.**
- Exhibit 8 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, dated March 2021.

- Exhibit 9 - Stormwater Report prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, dated June 22, 2020, stamped January 26, 2021.
- Exhibit 10 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, revised March 2021.
- Exhibit 11 - Memo prepared by John T. Gillon, Gillon Associates, Traffic and Parking Specialists, dated April 5, 2021.
- Exhibit 12 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021; Sheet 7, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021; Sheet 8, entitled "Sewer Extension Plan and Profile," dated November 19, 2020, revised April 15, 2021; Sheet 9, entitled "Construction Period Plan," dated June 22, 2020, revised April 15, 2021, **all plans stamped April 15, 2021.**
- Exhibit 13 - Architectural plans entitled "Needham Enterprises, Daycare Center, 1688 central Avenue," prepared by Mark Gluesing Architect, 48 Mackintosh Avenue, Needham, MA, consisting of 2 sheets: Sheet 1, Sheet A3-0, showing "North Elevation," "West Elevation," "East Elevation," and "South Elevation," dated March 8, 2021, revised March 30, 2021; Sheet 2, Sheet A1-0, entitled "1st Floor Plan, dated March 8, 2021, revised March 30, 2021.
- Exhibit 14 - Letter from Attorney Evans Huber, dated April 16, 2021.
- Exhibit 15 - Letter from Attorney Evans Huber, dated April 21, 2021.
- Exhibit 16 - Memorandum from Attorney Evans Huber, dated May 5, 2021.
- Exhibit 17 - Letter from Attorney Evans Huber, dated May 14, 2021.
- Exhibit 18 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 7, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 8,

entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021 and June 2, 2021; Sheet 9, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021 and June 2, 2021, **all plans stamped June 2, 2021.**

- Exhibit 19 - Architectural plans entitled “Needham Enterprises, Daycare Center, 1688 central Avenue,” prepared by Mark Gluesing Architect, 48 Mackintosh Avenue, Needham, MA, consisting of 2 sheets: Sheet 1, Sheet A1-0, entitled “1st Floor Plan, dated March 8, 2021, revised March 30, 2021 and May 30, 2021; Sheet 2, Sheet A3-0, showing “North Elevation,” “West Elevation,” “East Elevation,” and “South Elevation,” dated March 8, 2021, revised March 30, 2021 and May 30, 2021.
- Exhibit 20 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, revised June 2021.
- Exhibit 21 - Letter from Attorney Evans Huber, dated June 14, 2021.
- Exhibit 22 - Presentation shown at the July 20, 2021 public hearing.
- Exhibit 23 - Materials presented by NCC at the July 20, 2021 public hearing comprising two sheets entitled “Proposed Pick Up and Drop Off Operations Needham Children’s Center, Inc.”, undated and “Projected Arrivals and Departures Based on 95 Children”, undated.
- Exhibit 24 - Memorandum from Attorney Evans Huber, dated August 4, 2021.
- Exhibit 25 - Plans entitled “Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA,” consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 2, entitled “Existing Conditions Plan of Land in Needham, MA,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 3, entitled “Site Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 4, entitled “Grading and Utilities Plan of Land,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 5, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021 and June 2, 2021; Sheet 6, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 7, entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 8, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021; Sheet 9, entitled “Landscaping Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021 and July 28, 2021, **all plans stamped July 28, 2021.**
- Exhibit 26 - Traffic Impact Assessment, prepared by Gillon Associates, Traffic and Parking Specialists, dated August 11, 2021.
- Exhibit 27 - Memo prepared by John T. Gillon, Gillon Associates, Traffic and Parking Specialists, dated August 21, 2021, transmitting Response to Greenman-Pedersen, Inc. peer review.

- Exhibit 28 - Technical Memorandum, from John Gillon, prepared by Gillon Associates, Traffic and Parking Specialists, dated September 2, 2021.
- Exhibit 29 - Letter from Attorney Evans Huber, dated September 30, 2021.
- Exhibit 30 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 5, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 7, entitled "Sewer Extension Plan and Profile," dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 8, entitled "Construction Period Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021; Sheet 9, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 and September 28, 2021, **all plans stamped September 29, 2021.**
- Exhibit 31 - Plan entitled "Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, and September 28, 2021.
- Exhibit 32 - Memorandum from Attorney Evans Huber, dated October 13, 2021.
- Exhibit 33 - Email from Evans Huber, dated October 14, 2021 with two attachments: Vehicle Count for September 2019 and Vehicle Count for February 2020.
- Exhibit 34 - Memorandum from Attorney Evans Huber, dated October 28, 2021.
- Exhibit 35 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, , September 28, 2021 and October 28, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 5, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 , September 28, 2021 and October 28, 2021; Sheet 6, entitled

“Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 7, entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 8, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021; Sheet 9, entitled “Landscaping Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021 and October 28, 2021, **all plans stamped October 28, 2021.**

- Exhibit 36 - Plan entitled “Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, and October 28, 2021.

- Exhibit 37 - Technical Memorandum, from John Gillon, prepared by Gillon Associates, Traffic and Parking Specialists, dated October 27, 2021.

- Exhibit 38 - Email from Evans Huber, dated November 8, 2021, regarding “1688 Central Ave request for additional peer review fees.”

- Exhibit 39 - Memorandum from Attorney Evans Huber, dated November 10, 2021.

- Exhibit 40 - Plans entitled “Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA,” consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 2, entitled “Existing Conditions Plan of Land in Needham, MA,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, , September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 3, entitled “Site Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 4, entitled “Grading and Utilities Plan of Land,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 5, entitled “Landscaping Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 6, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021 , September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 7, entitled “Construction Details,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 8, entitled “Sewer Extension Plan and Profile,” dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 9, entitled “Construction Period Plan,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021; Sheet 10, entitled “Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham,” dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021 and November 8, 2021, **all plans stamped November 8, 2021.**

- Exhibit 41 - Plan entitled "1688 Central Turning Radius," consisting of 3 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032: sheet 1, showing "20' Delivery Van," dated October 6, 2021; Sheet 2, showing "30' Trash Truck," dated October 6, 2021; sheet 3, showing "30' Trash Truck," dated October 6, 2021.
- Exhibit 42 - Email from Evans Huber, dated November 11, 2021, regarding "Traffic Peer Review: 1688 Central Avenue."
- Exhibit 43 - Letter from Attorney Evans Huber, dated December 2, 2021, with attached minutes from Canton Zoning Board of Appeals from March 25, 2021.
- Exhibit 44 - Memorandum from Attorney Evans Huber, dated December 2, 2021.
- Exhibit 45 - Plans entitled "Site Development Plans, Daycare, 1688 Central Avenue, Needham, MA," consisting of 9 sheets, prepared by Glossa Engineering, Inc., 46 East Street, East Walpole, MA, 02032, Sheet 1, Cover Sheet, dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 2, entitled "Existing Conditions Plan of Land in Needham, MA," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 3, entitled "Site Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 4, entitled "Grading and Utilities Plan of Land," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 5, entitled "Landscaping Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 6, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 7, entitled "Construction Details," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 8, entitled "Sewer Extension Plan and Profile," dated November 19, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 9, entitled "Construction Period Plan," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021; Sheet 10, entitled "Appendix, Photometric and Site Lighting Plan, 1688 Central Ave in Needham," dated June 22, 2020, revised April 15, 2021, June 2, 2021, July 28, 2021, September 28, 2021, October 28, 2021, November 8, 2021 and November 22, 2021, **all plans stamped November 22, 2021.**
- Exhibit 46 - Letter from Attorney Evans Huber, dated December 16, 2021, with two attachments: (1) Letter from Attorney Evans Huber dated September 30, 2021; and (2) estimated cost to relocate daycare provided by Glossa Engineering, dated December 15, 2021.

Peer Review on Traffic

- Exhibit 47 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated July 15, 2021, regarding traffic impact peer review.
- Exhibit 48 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated August 26, 2021, regarding traffic impact peer review.
- Exhibit 49 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated October 18, 2021, regarding traffic impact peer review.
- Exhibit 50 - Email thread between John Glossa and John Diaz, most recent email dated October 28, 2021.
- Exhibit 51 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated November 1, 2021, regarding traffic impact peer review, with accompanying marked up site plans from October 28, 2021.
- Exhibit 52 - Email from John Diaz, dated November 16, 2021.
- Exhibit 53 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated November 16, 2021, regarding traffic impact peer review.
- Exhibit 54 - Letter from John W. Diaz, Greenman-Pedersen, Inc., dated December 17, 2021, regarding traffic impact peer review.

Staff/Board Comments

- Exhibit 55 - Memorandum from the Design Review Board, dated March 22, 2021.
- Exhibit 56 - Memorandum from the Design Review Board, dated May 14, 2021.
- Exhibit 57 - Memorandum from the Design Review Board, dated August 13, 2021.
- Exhibit 58 - Interdepartmental Communication (“IDC”) to the Board from Tara Gurge, Health Department, dated March 24, 2021, April 27, 2021, August 9, 2021, August 16, 2021 (with attachment – “Environmental Risk Management Review,” prepared by PVC Services, LLC dated March 17, 2021), November 18, 2021 (with attachment of Board of Health 11/16/21 agenda), November 18, 2021 and December 16, 2021 (with attached Board of Health 12/14/21 agenda).
- Exhibit 59 - IDC to the Board from David Roche, Building Commissioner, dated March 22, 2021, and December 7, 2021.
- Exhibit 60 - IDC to the Board from Chief Dennis Condon, Fire Department, dated March 29, 2021, April 27, 2021, and August 9, 2021
- Exhibit 61 - IDC to the Board from Chief John J. Schlittler, Police Department, dated May 6, 2021.

- Exhibit 62 - IDC to the Board from Thomas Ryder, Assistant Town Engineer, dated March 31, 2021, May 12, 2021, August 12, 2021, September 2, 2021, November 16, 2021, December 6, 2021, and January 3, 2022.

Abutter Comments

- Exhibit 63 - Neighborhood Petition Regarding Development of 1688 Central Avenue in Needham, submitted by email from Holly Clarke, dated March 22, 2021, with excel spreadsheet of signatories.
- Exhibit 64 - Email from Robert J. Onofrey, 49 Pine Street, Needham, MA, dated March 26, 2021.
- Exhibit 65 - Email from Norman MacLeod, Pine Street, dated March 31, 2021.
- Exhibit 66 - Letter from Holly Clarke, 1652 Central Avenue, Needham, MA, dated April 3, 2021, transmitting “Comments of Neighbors of 1688 Central Avenue for Consideration During the Planning Board’s Site Review Process for that Location,” with 3 attachments.
- Exhibit 67 - Email from Meredith Fried, dated Sunday April 4, 2021.
- Exhibit 68 - Letter from Michaela A. Fanning, 853 Great Plain Avenue, Needham, MA, dated April 5, 2021.
- Exhibit 69 - Email from Maggie Abruzese, dated April 5, 2021.
- Exhibit 70 - Letter from Sharon Cohen Gold and Evan Gold, dated April 5, 2021.
- Exhibit 71 - Email from Matthew Heidman, dated May 10, 2021.
- Exhibit 72 - Email from Matthew Heidman, dated May 11, 2021 with attachment Letter directed to members of the Design Review Board, from Members of the Neighborhood of 1688 Central Avenue, undated.
- Exhibit 73 - Email from Rob DiMase, sated May 12, 2021.
- Exhibit 74 - Email from Eileen Sullivan, dated May 12, 2021.
- Exhibit 75 - Two emails from Eric Sockol, dated May 11 and May 12.
- Exhibit 76 - Email from Rob DiMase, sated May 13, 2021.
- Exhibit 77 - Email from Sally McKechnie, dated May 13, 2021.
- Exhibit 78 - Letter from Holly Clarke, dated May 13, 2021, transmitting “Response of Abutters and Neighbors of 1688 Central Avenue Project to the Proponent’s Letter of April 16, 2021,” with Attachment 1.
- Exhibit 79 - Email from Joseph and Margaret Abruzese dated May 17, 2021, transmitting the following:

Letter from Joseph and Margaret Abruzese, titled “Objection to Any Purported Agreement to Waive Major Project Review and/or Special Permit requirements with Regard to Proposed Construction at 1688 Central Avenue,” undated.

- Exhibit 80 - Letter directed to Kate Fitzpatrick, Town Manager, from Joseph and Margaret Abruzese, dated April 5, 2021.
- Exhibit 81 - Email from Lee Newman, Director of Planning and Community Development, dated May 17, 2021, replying to email from Sharon Cohen Gold, dated May 15, 2021.
- Exhibit 82 - Email from Meredith Fried, dated May 18, 2021.
- Exhibit 83 - Email from Lori Shaer, Bridle Trail Road, dated May 18, 2021.
- Exhibit 84 - Email from Sandra Jordan, 219 Stratford Road, dated May 18, 2021.
- Exhibit 85 - Email from Khristy J. Thompson, 50 Windsor Road, dated May 18, 2021.
- Exhibit 86 - Email from Henry Ragin, dated May 18, 2021.
- Exhibit 87 - Email from David G. Lazarus, 115 Oxbow Road, dated May 18, 2021.
- Exhibit 88 - Email from John McCusker, 248 Charles River Street, dated May 18, 2021.
- Exhibit 89 - Email from Laurie and Steve Spitz, dated May 18, 2021.
- Exhibit 90 - Email from Randy Hammer, dated May 18, 2021.
- Exhibit 91 - Letter from Holly Clarke, dated May 24, 2021, transmitting comments concerning the Planning Board meeting of May 18, 2021.
- Exhibit 92 - Email from Robert Onofrey, 49 Pine Street, dated May 25, 2021, with attachment (and follow up email May 26, 2021).
- Exhibit 93 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated June 8, 2021, transmitting document entitled “Needham Enterprise, LLC Application for Major Site Review Must be Rejected Because the Supporting Architectural Drawings are Filed in Violation of the State Ethics Code,” with Exhibit A.
- Exhibit 94 - Email from Barbara Turk, 312 Country Way, dated April 3, 2021, forwarded from Holly Clarke on June 14, 2021.
- Exhibit 95 - Email from Patricia Falcao, 19 Pine Street, dated April 4, 2021, forwarded from Holly Clarke on June 14, 2021.
- Exhibit 96 - Email from Leon Shaigorodsky, Bridle Trail Road, dated April 4, 2021, forwarded from Holly Clarke on June 14, 2021.

- Exhibit 97 - Letter from Peter F. Durning, Mackie, Shae, Durning, Counselors at Law, dated June 11, 2021.
- Exhibit 98 - Revised list of signatories to earlier submitted petition, received on June 11, 2021.
- Exhibit 99 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated June 11, 2021.
- Exhibit 100 - Email from Karen and Alan Langsner, Windsor Road, dated June 13, 2021.
- Exhibit 101 - Email from Stanley Keller, 325 Country Way, dated June 13, 2021. Email from Sean and Marina Morris, 48 Scott Road, dated June 14, 2021.
- Exhibit 102 - Letter from Holly Clarke, dated June 14, 2021, transmitting "Comments of Neighbors of 1688 Central Avenue for Consideration During the Planning Board's Site Review Process for that Location Concerning the Traffic Impact Assessment Reports."
- Exhibit 103 - Email from Pete Lyons, 1689 Central Avenue, dated June 14, 2021.
- Exhibit 104 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated June 14, 2021.
- Exhibit 105 - Email from Ian Michelow, Charles River Street, dated June 13, 2021.
- Exhibit 106 - Email from Nikki and Greg Cavanagh, dated June 14, 2021.
- Exhibit 107 - Email from Patricia Falcao, 19 Pine Street, dated June 14, 2021.
- Exhibit 108 - Email from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 6, 2021.
- Exhibit 109 - Email from David Lazarus, Oxbow Road, dated July 12, 2021.
- Exhibit 110 - Email from Maggie Abruzese, dated July 12, 2021.
- Exhibit 111 - Letter directed to Marianne Cooley, Select Board, and Attorney Christopher Heep, from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 12, 2021.
- Exhibit 112 - Email from Barbara and Peter Hauschka, 105 Walker Lane, dated July 13, 2021.
- Exhibit 113 - Email from Rob DiMase, dated July 14, 2021.
- Exhibit 114 - Email from Lee Newman, Director of Planning and Community Development, dated July 14, 2021, replying to email from Maggie Abruzese, dated July 14, 2021.
- Exhibit 115 - Email from Leon Shaigorodsky, dated July 17, 2021.

- Exhibit 116 - Letter directed to Members of the Planning Board, from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 28, 2021, regarding “Suspending Hearings Pending a Resolution of the Ethics Questions.”
- Exhibit 117 - Letter directed to Members of the Planning Board, from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated July 28, 2021, regarding “Objection to the Hearing of July 20, 2021.”
- Exhibit 118 - Letter from Holly Clarke, dated August 12, 2021, transmitting “The Planning Board Must Deny the Application as the Needham Zoning Bylaws Prohibit More than One Non-Residential Use or Building on a Lot in Single Residence A.”
- Exhibit 119 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated August 12, 2021, transmitting “The Authority of the Planning Board to Address Ethical Issues in the 1688 Central Matter.”
- Exhibit 120 - Email directed to the Select Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated August 13, 2021, transmitting “The Power and Duty of the Select Board to Address Ethical Issues in the 1688 Central Matter.”
- Exhibit 121 - Letter from Holly Clarke, dated August 13, 2021, transmitting “The Planning Board’s Authority to Regulate the Proposed Development of 1688 Central Avenue Includes the Authority to Reject the Plan.”
- Exhibit 122 - Letter from Patricia Falcao, dated August 30, 2021.
- Exhibit 123 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated August 25, 2021, with attachment regarding Special Municipal Employee status.
- Exhibit 124 - Email from Patricia Falcao, dated August 30, 2021.
- Exhibit 125 - Email from Daniel Gilmartin, 111 Walker Lane, dated August 30, 2021.
- Exhibit 126 - Email from Dave S., dated September 4, 2021.
- Exhibit 127 - Letter from Holly Clarke, dated September 7, 2021, transmitting “Neighbors’ Comments on the Traffic Impact Analysis,” with 2 attachments.
- Exhibit 128 - Email from Elizabeth Bourguignon, 287 Warren Street, dated September 5, 2021.
- Exhibit 129 - Letter from Amy and Leonard Bard, 116 Tudor Road, dated September 5, 2021.
- Exhibit 130 - Email from Mary Brassard, 267 Hillcrest Road, dated September 28, 2021.
- Exhibit 131 - Email from Christopher K. Currier, 11 Fairlawn Street, dated September 28, 2021.
- Exhibit 132 - Email from Stephen Caruso, 120 Lexington Avenue, dated September 28, 2021.
- Exhibit 133 - Email from Emily Pugach, 42 Gayland Road, dated September 29, 2021.

- Exhibit 134 - Email from Robin L. Sherwood, dated September 29, 2021.
- Exhibit 135 - Email from Sarah Solomon, 21 Otis Street, dated September 29, 2021.
- Exhibit 136 - Email from Lee Ownbey, 27 Powderhouse Circle, dated September 29, 2021.
- Exhibit 137 - Email from Emily Tow, dated September 29, 2021.
- Exhibit 138 - Email from Leah Caruso, dated September 29, 2021.
- Exhibit 139 - Email from Jennifer Woodman, dated September 29, 2021.
- Exhibit 140 - Email from Nancy and Chet Yablonski, dated September 29, 2021.
- Exhibit 141 - Email from Pamela and Andrew Freedman, 17 Wilshire Park, dated September 29, 2021.
- Exhibit 142 - Email from Dr. Jennifer Lucarelli, 58 Avalon Rd, dated September 29, 2021.
- Exhibit 143 - Email from Maija Tiplady, dated September 30, 2021.
- Exhibit 144 - Email from Ashley Schell, dated September 30, 2021.
- Exhibit 145 - Email from Kristin Kearney, 11 Paul Revere Rd, dated September 30, 2021.
- Exhibit 146 - Email from Dave Renninger, dated September 30, 2021.
- Exhibit 147 - Letter from Brad and Rebecca Lacouture, dated September 30, 2021.
- Exhibit 148 - Email from Kerry Cervas, 259 Hillcrest Road, dated September 30, 2021.
- Exhibit 149 - Letter from Holly Clarke, dated October 1, 2021, transmitting "The Past Use of the Property for Automobile Repairs and Other Non-Residential Purposes Merit Environmental Precautions to Insure the Safe Development and Use of the Property."
- Exhibit 150 - Email from Carolyn Walsh, 202 Greendale Avenue, dated September 30, 2021.
- Exhibit 151 - Email from Robert DiMase, 1681 Central Avenue, dated October 6, 2021.
- Exhibit 152 - Email from Elyse Park, dated October 6, 2021.
- Exhibit 153 - Email from R.M. Connelly, dated October 6, 2021.
- Exhibit 154 - Email from Eric Sockol, 324 Country Way, undated, received October 6, 2021.
- Exhibit 155 - Email from R.M. Connelly, dated October 9, 2021.
- Exhibit 156 - Email from Robert James Onofrey, 49 Pine Street, dated October 12, 2021 with attachment.

- Exhibit 157 - Letter from Holly Clarke, dated October 16, 2021, transmitting “Neighbor’s Comments on the Application of Needham Zoning By-Law 3.2.1.”
- Exhibit 158 - Email from R.M. Connelly, dated October 18, 2021.
- Exhibit 159 - Email from David Lazarus, Oxbow Road, dated October 19, 2021.
- Exhibit 160 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated October 27, 2021, transmitting “Objection to Use of Architectural Plans and Testimony 1688 Central Avenue.”
- Exhibit 161 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated November 1, 2021, transmitting “The Applicant Cannot Keep both the Barn and the New Building.”
- Exhibit 162 - Letter to the Planning Board from Denise Linden, undated, received November 4, 2021.
- Exhibit 163 - Email to the Planning Board from Khristy J. Thompson, Ph.D., dated November 10, 2021, with the following attachments discussing the impact of lead and other metals on the neurodevelopment of young children.
- Exhibit 164 - Letter from Holly Clarke, dated November 13, 2021, transmitting “The Proponent’s October 27, 2021 Report Again Changes the Data Used to Assess the Impact of the Project on Central Avenue.”
- Exhibit 165 - Letter from Holly Clarke, dated November 14, 2021, transmitting “Photographs and Video of Traffic on Central Avenue.”
- Exhibit 166 - Letter from Holly Clarke, dated November 14, 2021, transmitting “Commercial Child Care Facilities Do Not Customarily Have Accessory Buildings.”
- Exhibit 167 - Email from Joseph and Margaret Abruzese dated November 15, 2021, accompanying the following attachment:
- Town of Canton, Massachusetts, Zoning Board of Appeals Decision, dated August 13, 2020, with Exhibits A, B, C and D.
- Exhibit 168 - Letter from Sharon Cohen Gold and Evan Gold, dated November 16, 2021.
- Exhibit 169 - Letter to the Planning Board from Elizabeth Bourguignon, 287 Warren St., dated, November 16, 2021.
- Exhibit 170 - Letter to the Planning Board from Carolyn Day Reulbach, 12 Longfellow Road, dated, December 2, 2021.
- Exhibit 171 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle Trail Road, dated December 6, 2021.
- Exhibit 172 - Email directed to the Planning Board from Maggie and Joe Abruzese, 30 Bridle

Trail Road, dated December 6, 2021, transmitting “Parking Requirements of Needham Zoning Bylaw.”

- Exhibit 173 - Letter from Pat Falcao, 19 Pine Street, received December 7, 2021.
- Exhibit 174 - Email from Rick Hardy, 1347 South Street, dated December 8, 2021.
- Exhibit 175 - Email from Laurie and Steve Spitz, dated December 7, 2021, transmitting video of traffic on Central Avenue.
- Exhibit 176 - Letter from Joe Abruzese, dated December 12, 2021, regarding his presentation from December 8, 2021 public hearing.
- Exhibit 177 - Email from Maggie Abruzese, dated December 12, 2021, transmitting the following as discussed at the December 8, 2021 public hearing:
 - a. “Lighting at 1688 Central Avenue” with Exhibits
 - b. Talking Points from December 8, 2021 hearing.
- Exhibit 178 - Letter from M. Patrick Moore Jr., and Johanna W. Schneider, Hemenway & Barnes, LLP, dated December 20, 2021.
- Exhibit 179 - Letter from Holly Clarke, dated December 18, 2021, transmitting comments from neighbors.

Miscellaneous

- Exhibit 180 - Email from Attorney Christopher H. Heep, dated June 9, 2021.
- Exhibit 181 - Two Emails from Attorney Christopher Heep, dated July 16, 2021.
- Exhibit 182 - Letter from Attorney Christopher H. Heep, dated September 2, 2021.
- Exhibit 183 - Letter from Attorney Christopher H. Heep, dated September 8, 2021.
- Exhibit 184 - Letter from Stephen J. Buchbinder, Schlesinger and Buchbinder, LLP, dated October 1, 2021.
- Exhibit 185 - Letter from Eve Slattery, General Counsel, Commonwealth of Massachusetts, State Ethics Commission, dated September 30, 2021.
- Exhibit 186 - Email from Evans Huber, dated October 7, 2021.
- Exhibit 187 - Email from Lee Newman directed to Evans Huber, dated October 8, 2021.
- Exhibit 188 - Letter from Eve Slattery, General Counsel, Commonwealth of Massachusetts, State Ethics Commission, dated October 4, 2021.
- Exhibit 189 - Email from Lee Newman directed to and replying to R.M. Connelly, dated October 19, 2021.

Exhibit 190 - Letter from Brian R. Falk, Mirick O’Connell, Attorneys at Law, dated October 27, 2021.

Exhibit 191 - Letter from Attorney Christopher H. Heep, dated November 2, 2021.

Exhibit 192 - Letter directed to Evans Huber from Lee Newman, Director, Planning and Community Development, dated November 10, 2021.

Legal Memorandum submitted after the close of the public hearing:

Exhibit 193 - Table prepared by Attorney Christopher H. Heep of Dover Amendment Cases regarding Child-care Facilities, undated.

Exhibit 194 - Email from Attorney Evans Huber, dated January 4, 2022.

Exhibit 195 - Letter from M. Patrick Moore Jr., and Johanna W. Schneider, Hemenway & Barnes, LLP, dated January 4, 2022.

Exhibit 196 - Sketch plan showing the barn demolished and proposed building relocated to a front yard setback of 135 with parking reconfigured to its rear. Drawing presented at the January 6, 2022 Planning Board meeting.

Exhibits 1, 2, 8, 9, 10, 11, 19, 20, 23, 26, 27, 28, 37, 41, and 45 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 Single Residence A District at 1688 Central Avenue, Needham, Massachusetts, and is shown on Needham Assessor’s Plan No. 199 as Parcel 213 containing 3.352 acres.
- 1.2 The subject property is presently improved by a single-family dwelling comprising 1,663 square feet, two smaller out-buildings, garage comprising 400 square feet and second garage comprising 600 square feet, and a barn comprising 4,800 square feet. The proposed project has evolved through a long series of changes to have the following key elements: demolish the single-family dwelling and the two garages at the property, construct a new one-story building of 10,034 square feet to house a child-care facility and retain the existing two-story 4,800 square foot barn to be used for accessory storage by the child-care facility, with a new parking area that includes the construction of 30 off-street surface parking spaces.
- 1.3 The proposed project provides access to the child-care facility at 1688 Central Avenue by using a 200-plus foot-long, 30-foot-wide access drive to Central Avenue, consisting of three lanes, an 8-foot-wide queueing lane that can accommodate ten waiting vehicles and which provides access to a drop-off and pick-up area, an 11-foot-wide entrance lane providing unimpeded access to the rear parking areas, and an 11-foot-wide exit lane.

- 1.4 The proposed project provides that the child-care facility will house an existing Needham child-care business, namely the NCC.
- 1.5 The NCC preschool/daycare program will operate Monday through Friday, between the hours of 7:30 a.m. and 6:00 p.m., with a maximum of 115 children on the property at any one time.
- 1.6 The maximum number of NCC staff on site at any one time will be 18 broken down as follows. The projected total staff on peak days (Tuesdays-Thursday) will be 18 (16 staff and 2 administrators). The projected total staff on Monday will be 17 (15 staff and 2 administrators). The projected total staff on Friday will be 15 (13 staff and 2 administrators). At all times the child-care business will maintain compliance with any staffing standards or requirements determined by the relevant Commonwealth agency regulating such uses.
- 1.7 The By-Law does not contain a specific parking requirement for a child-care use. In cases where the By-Law does not provide a specific requirement, the required number of parking spaces shall be derived from the “closest similar use as shall be determined by the Building Commissioner,” Section 5.1.2(20). In the event that the Building Commissioner is unable to determine that a proposed use relates to any use within Section 5.1.2, the Board shall recommend a reasonable number of spaces to be provided based on the expected parking needs of occupants, users, guests, or employees of the proposed business, with said recommendation based on the Institute of Transportation Engineers (ITE) Parking Generation Manual, 2nd Edition, or an alternative technical source determined by the Planning Board to be equally or more applicable. The Petitioner assessed the number of parking spaces needed to support the use of the site based upon the anticipated number of children and staff members at the site by utilizing the formula which the Town uses for this type of use, which is 8 spaces, plus 1 space for each 40 children, plus one space per staff member. (See ITE Journal of July 1994 entitled “Parking and Trip Generation Characteristics for Day-Care Facilities”, by John W. Van Winkle and Colin Kinton). Applying this formula leads to a calculated parking requirement of 29 spaces. The Petitioner is proposing 30 on-site parking spaces which more than satisfies the requirements of the By-Law.
- 1.8 The Petitioner has submitted a traffic analysis which evaluates the anticipated traffic impacts resulting from the proposed development of a child-care facility at 1688 Central Avenue (See Exhibits 8, 10, 11, 20, 26, 27, 28, and 37). The submitted traffic analysis was peer reviewed by the Town’s traffic consultant, John W. Diaz of Greenman-Pedersen, Inc., GPI as detailed in Exhibits 47 through 54.

Specifically, the report provided by the Petitioner assesses traffic operational characteristics at the unsignalized Central Avenue intersection at the site driveway and at the signalized Central Avenue/Charles River Street intersection. Due to the Covid-19 pandemic, traffic levels from 2020 and 2021 have generally decreased and while slowly increasing are still below pre-2020, pre-pandemic levels. Massachusetts Department of Transportation (MassDOT) has developed guidelines for determining traffic volumes in the absence of current traffic data, the standard practice of which has been to use pre-2020 traffic data where possible and factor to current conditions based on historic growth rates. The Petitioner has followed this approach. With regard to the site driveway intersection, the Petitioner has utilized 2016 data provided by the Town along Central Avenue in the vicinity of the site and has factored growth volumes of 1% per year to

2021 for the existing condition and to 2028 for the Baseline or No-Build condition. With regard to the Central Avenue/Charles River Street intersection, the afternoon turning movement counts of 2016 were also expanded proportionately for the same analysis period. The morning counts here were not available at the Central Avenue/Charles River Street intersection but the evening peak hour period was more critical due to the predominate southbound movement and queuing implications during this period. Finally, rather than relying on operational data from the child-care operator to determine site traffic, the more conservative ITE land use calculations based on the square footage of the building were applied to the project to estimate site traffic.

- 1.9 The proposed project is expected to generate approximately 110 new morning peak hour trips with 58 in bound and 52 outbound. The project is also expected to generate approximately 112 new evening peak hour trips with 53 inbound and 59 outbound. The directional distribution of trips reflects the existing Central Avenue directional split of the Gan Aliyah Pre-School next door to the site at Temple Aliyah. The entering project traffic is distributed for 80% of the traffic to enter from the north (left turn in) and 20% of traffic to enter from the south (right turn in).
- 1.10 The level of service analysis conducted at the Central Avenue intersection at the site driveway shows a calculated “A” level of service for all north bound movements in the morning and evening peak periods and a calculated “B” level of service for all south bound movements in the morning and evening peak periods, both of which are acceptable for this type of facility. The site driveway itself will have an acceptable “E” level of service with average delay during the morning peak period and a “C” level during the evening peak period. The Central Avenue/Charles River Street intersection will continue to operate at an overall “F” level of service with an overall increase in delay of five seconds.
- 1.11 The Petitioner further reviewed the Central Avenue/Charles River Street intersection for the morning peak hour (7:15 a.m. to 8:15 a.m.) and for the evening peak hour (5:00 p.m. to 6:00 p.m.) to see if adjustments to signal timing at this location would lead to an improved level of service. For this analysis, supplemental counts were collected by the Petitioner on Wednesday, October 13, 2021, with those counts increased by 30.4% as evidenced by MassDOT Station ID #6161 to identify 2021 roadway network volumes at the intersection assuming Covid-19 had not occurred. These adjusted volumes were further inflated by one percent per year over seven years to account for normal growth between 2021 and 2028.
- 1.12 The following overall levels of service for the existing, base and build conditions for the studied signal optimization timing adjustments at the Central Avenue/Charles River Street intersection are detailed below. These conclusions assume the roadway network volumes have been adjusted upwards as described in 1.11 above. For the existing Covid-19-affected 2021 signal timing optimization condition, the Central Avenue/Charles River Street intersection operates at overall levels of service of “E” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “D” during the evening peak hour (5:00 p.m. to 6:00 p.m.). For the base 2028 signal optimization condition (2028 with no development at 1688 Central Avenue), the Central Avenue/Charles River Street intersection operates at overall levels of service of “F” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “E” during the evening peak hour (5:00 p.m. to 6:00 p.m.). These values show the overall levels of service will worsen somewhat compared to current conditions assuming there is no development at 1688 Central Avenue. For the build condition where signal

timing optimization is not implemented, the Central Avenue/Charles River Street intersection operates at overall levels of service of “F” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “F” during the evening peak hour (5:00 p.m. to 6:00 p.m.). These values show that development of 1688 Central will have essentially no impact on Central Avenue levels of service during peak hours and will have only a modest impact on Central Avenue southbound during those hours. The only significant impact is projected to be from Central Avenue southbound during the evening peak hour. Lastly, for the build condition where signal timing is optimized, the Central Avenue/Charles River Street intersection operates at overall levels of service “E” during the morning peak hour (7:15 a.m. to 8:15 a.m.) and “C” during the evening peak hour (5:00 p.m. to 6:00 p.m.). These values show that under the signal timing optimization condition studied, the overall levels of service (and delays) on Central Avenue during peak hours will become significantly better, while the delays and levels of service on Charles River Street would become worse. That said, the analysis demonstrates that meaningful mitigation on Central Avenue is attainable during the peak period with less significant timing changes implemented in the alternative and without causing a substantial impact on Charles River Street.

- 1.13 The Petitioner further reviewed queuing at the Central Avenue/Charles River Street intersection for the studied signal timing optimization conditions described in Section 1.12 above. This analysis shows that the 95th percentile queue on Central Avenue southbound during the evening will increase from 830 feet today (with non-Covid traffic volumes) to 907 feet in 2028 without the proposed development at 1688 Central Avenue and to 950 feet with the proposed development. Thus, comparing the 2028 “build” to “no build” conditions anticipates an increase in the length of the queue during the evening peak hour of about 43 feet (approximately 2-3 vehicles) if this project is developed as proposed. The roadway length between the site driveway and Charles River Street is 885 feet. The length of the queue in 2028 is projected to extend past the site driveway under either the “build” condition (950 feet) or “no build” condition (907 feet) further supporting a change in the timing of the signals. Implementation of the optimized signal timing adjustments at the Central Avenue/Charles River Street intersection as described in Section 1.12 above shortens the southbound queue from 830 feet today to only 670 feet, which is more than 200 feet south of the site driveway. Furthermore, a less substantial change to the signal timing can provide significant mitigation of the queueing from the intersection back to the site driveway.
- 1.14 The NCC has provided information detailing the number of children and cars anticipated to arrive at and leave the site, as well as proposed operating measures. The maximum total of 115 children arriving in the morning is broken down as follows: 55 infants, toddlers and preschoolers arriving in the morning peak drop-off period of 7:30 a.m. to 8:50 a.m.; 30 children who will not arrive until shortly before 9:00 a.m. or later; and 30 after-school children who will arrive in the afternoon. The maximum total of 115 children leaving in the afternoon is broken down as follows: 20 children from the nursery school at noon or 2:30 p.m.; 10 preschool children at 3:00 p.m.; and 85 children from 3:30 p.m. to 6:00 p.m. spaced evenly across a two-and-a-half-hour window. NCC staff will be on-site before the critical arrival and departure hours to assist children between vehicles and the building. Children being dropped off and picked up will be escorted into the building, and from the building into the parents’ cars, by NCC staff, to assure their safety.
- 1.15 Drop-off and pick-up times for all children will be staggered, to reduce queueing on the site and to assure that queued vehicles do not negatively impact Central Avenue

operations. To assure that queued vehicles could be accommodated on the site without negative impact to Central Avenue, an analysis based on the Poisson distribution model of random arrivals was conducted. Two scenarios were considered.

The first scenario considered was based on actual data from the anticipated operator as to the number of children (max 55) that will be arriving during the peak morning drop-off period, which is from 7:30 a.m. to 8:50 a.m. Another group of children (max 30) will arrive after this peak drop-off period because their programs do not start until 9:00 a.m. or later. The remaining children using the facility are after-school children (max 30) who will not arrive until the afternoon. In addition, years of data from the operator confirms that of the 55 children being dropped off during the peak 80-minute drop-off period, approximately 30 will be siblings, meaning these 30 children will arrive in 15 vehicles. The other 25 children will arrive in one vehicle per child. Lastly, the morning staff will either have arrived prior to the beginning of drop-off, or, if they arrive during the peak period, they will proceed directly to the rear parking area, will not be in the drop lane, and thus do not need to be considered in the queuing analysis.

The analysis included the following assumptions: (a) random arrivals during the peak drop-off period; (b) a drop-off period of 80 minutes; (c) 40 parent vehicles arriving during the 80-minute period; and (d) 60-second drop-off window. The evaluation concluded based on 40 peak hour arrivals that there would be no more than 7 vehicles in the drop-off lane. With the proposed driveway plan showing a dedicated queue/drop of lane, there is storage for approximately 10 vehicles before queues would impact Central Avenue. Furthermore, the queue lane has been separated from the travel lane, allowing vehicles to bypass the queue in the event it approaches Central Avenue.

In addition to the above scenario, a second more conservative analysis was run using the Poisson distribution methodology for a maximum of 58 vehicle arrivals during the peak period. This analysis found that the maximum queue would be approximately 13 vehicles under this unlikely condition and that even at 58 vehicles, 99% of the time the queue would be less than 10 vehicles.

- 1.16 The Traffic Impact Assessment submitted by the Petitioner has identified existing traffic operating parameters on Central Avenue and at the Central Avenue/Charles River Street intersection, estimated the anticipated traffic volume increase as a result of the proposed project, analyzed the project's traffic-related impacts, evaluated access and egress requirements, and recommended site access and intersection improvement measures to improve traffic operations and safety conditions in the area. To minimize traffic delays in the area, the following study recommendations have been incorporated in the Plan and will be implemented by the Petitioner: (a) A police detail shall be provided at the site driveway during the peak morning and afternoon hours of arrivals and dismissals. The detail will remain in place for a minimum of 60 days, commencing on or after the opening of the child-care facility. The detail may be discontinued thereafter upon request of the Petitioner and a finding by the Board (following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient) that the site is operating without significantly impacting operations along Central Avenue. (b) Prior to building permit issuance, the Petitioner shall provide detailed traffic signal timing plans for optimized operations at the Central Avenue/Charles River Street intersection for the morning and evening peak hours. The Petitioner shall further coordinate with the Town Engineer on how to implement the revised signal times. The Petitioner shall be responsible for implementing any approved signal timing adjustments approved by the

Town Engineer prior to building occupancy. (c) The Petitioner shall complete a follow-up traffic study after the site is open and operational to at least 80% of student capacity. The Petitioner shall further fund a peer review of this post occupancy traffic study. The Board finds that the foregoing elements of the Plan minimize traffic delays in the area and provide adequate access and egress operational conditions at the site driveway.

- 1.17 The Petitioner's proposal includes a new one-story building of 10,034 square feet that will house a child-care facility and an existing two-story 4,800 square foot barn that will be retained and used for accessory storage by the child-care facility. This proposal is not in compliance with the requirements of Section 1.2 and Section 3.2.1 of the By-Law as detailed below.

a. The By-Law prohibits having more than one non-residential building or use on a lot in the Single Residence A zoning district. The By-Law at Section 3.1 provides as follows: "No building or structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as regulated by Section 3.1.2 as permitted and set forth in Section 3.2". Section 3.2.1 of the By-Law sets forth a schedule of uses for the Single Residence A zoning district. In that schedule, it marks as "No" in the Single Residence A District the following use: "more than one non-residential building or use on a lot where such buildings or uses are not detrimental to each other and are in compliance with all other requirements of this By-Law". Under the By-Law in the Single Residence A zoning district there cannot be more than one non-residential building on a lot. The Petitioner's Plan does not conform with this aspect of the By-Law because it impermissibly contains more than one non-residential building on a lot in the Single Residence A zoning district. With the construction of a 10,034 square foot child-care building on this lot, the barn would be a second non-residential building on the lot.

b. The project's proposal for the barn further does not meet the By-Law's definition of an accessory building and the building cannot be permitted as such. The By-Law at Section 3.1 provides as follows: "No building or structure shall be erected, altered or used and no premises shall be used for any purpose or in any manner other than as regulated by Section 3.1.2 as permitted and set forth in Section 3.2". Section 3.2.1 of the By-Law sets forth a schedule of uses for the Single Residence A zoning district. In that schedule, it marks as "yes" in the Single Residence A District the following use: "other customary and proper accessory uses, such as, but not limited to, garages, tool sheds, greenhouses and cabanas". The barn does not meet the definition of an accessory building under the By-Law. The By-Law at Section 1.3 defines "accessory building" as: "a building devoted exclusively to a use subordinate and customarily incidental to the principal use". In this case, the primary use of the proposed main building is that of a 10,034 square foot stand-alone child-care facility. The two-story barn has a footprint of approximately 2,600 square feet and overall square footage of approximately 4,800 square feet. To qualify the barn as an accessory building, the Petitioner must establish that it is "customary" (more than unique or rare) for a child-care facility to have an accessory building the size of the barn for storage. In the subject case, the barn contains almost half the square footage of the child-care facility itself. The Petitioner has not provided evidence of any other child-care center in Needham or elsewhere that has a similar, separate, large building for storage; nor has the Petitioner made any other factual showing that would warrant a finding that barns of this size are subordinate to and customarily incidental to child-care facilities. In fact, a review of twenty child-care facilities in Needham and nearby towns makes clear that it is not customary for these facilities to have accessory buildings. The twenty programs considered include the five Needham programs comparably sized to that

of the NCC, even if not situated in stand-alone commercial space, and fifteen child-care programs located in nearby towns. Each of these facilities was located through online mapping services to determine building arrangements. All these programs operate in a single building. None have accessory buildings much less one two stories high with a total of 4,800 square feet. Finally, the Massachusetts building requirements for child-care facilities do not call for such accessory buildings (See: 606 CMR 7.07).

- 1.18 As indicated in the Zoning Table shown on the Plan, the lot conforms to zoning requirements as to area and frontage of the Single Residence A District. As indicated in the Zoning Table shown on the Plan, the proposed building will comply with all applicable dimensional and density requirements of the Single Residence A District for an institutional use, namely, front, side and rear setback, maximum building height, maximum number of stories, maximum lot coverage, and maximum floor area ratio.
- 1.19 In addition to the above-noted minimum dimensional and density requirements of the Single Residence A District for an institutional use as detailed in Section 1.18, the project must also meet the site plan review criteria of the By-Law set forth in Section 7.4.6. The project before the Board shows deficiencies in two review categories namely Section 7.46(a) and Section 7.4.6(e) of the By-Law which provides that in conducting site plan review the Planning Board shall consider the following matters as follows:

“7.4.6(a) Protection of adjoining premises against seriously detrimental uses by provision of surface water drainage, sound and sight buffers and preservation of views light and air; and

7.46(e) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area and compliance with other requirements of the By-Law.”

- 1.20 The Petitioner seeks approval to place a large institutional building of 10,034 square feet 64 feet from Central Avenue and to raise the property’s grade by six feet. The Board finds placement of a large institutional building closer to the street than other buildings in the neighborhood is out of character with the surrounding neighborhood and conflicts with the Town’s interest in preserving the appearance of its residentially-zoned neighborhoods.

The proposed building is significantly larger than surrounding homes; it is closer to the street than any other building on this section of Central Avenue, and its grade is higher. In this residential area, no residential building is set back less than 65 feet from Central Avenue, and the clear pattern is for structures to be set back much further. A comparison of 11 abutting residential properties along Central Avenue shows a 65-foot front yard setback for one residential property with the remainder ten properties presenting with front yard setbacks in the range of 103 feet to 117 feet. For the one institutional use in the neighborhood, namely, Temple Aliyah, which abuts the subject property, a front yard setback of 213 feet is provided. Further, the Design Review Board’s comments on the project call for the building to be re-sited farther back from Central Avenue consistent with the neighborhood context, either by reconfiguring it or by removing the barn.

The current front yard setbacks along Central Avenue create more visual space along the street edge and contribute to the established residential appearance of the neighborhood. Siting the project in accordance with the established neighborhood pattern would be in

harmony with the existing configuration and would protect the character of the neighborhood per Section 7.46(e) of the By-Law. A larger setback would help to create a buffer from the proposed use, increasing both visual screen and protection from noise, activities and traffic for abutters and neighbors. Lengthening the driveway would make vehicle overflows onto Central Avenue less likely by moving on-site traffic further onto the lot and would create a longer driveway to help avoid any vehicle queuing from spilling over to Central Avenue.

The municipal interests served by increasing the project's front yard setback are extremely important. The lot has plenty of space to accommodate these legitimate concerns by adjusting the front yard setback for the proposed building deeper onto the lot. Massachusetts General Laws Chapter 40A, Section 3 permits regulation of a child-care facility relating to both setback and bulk, among other criteria.

- 1.21. Under Massachusetts General Laws, Chapter 40A, Section 3 (Dover Amendment) the use of the property for a child-care facility is protected. Massachusetts General Laws, Chapter 40A, Section 3 provides that: "No zoning ordinance or bylaw in any ...town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary ...purpose of operating a child-care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setback, open space, parking and building coverage requirements.

Where the Petitioner proposing a child-care facility seeks exceptions from otherwise applicable zoning requirements, that Petitioner bears the burden of proving that the local requirements are unreasonable as applied to its proposed project. This burden may be met by demonstrating that compliance would substantially diminish or detract from the usefulness of the proposed structure, or significantly impede the use without appreciably advancing the municipality's legitimate concerns. The Petitioner has not met this burden. Specifically, as relates the barn on the property, the Petitioner initially indicated that the barn would not be used in connection with the child-care facility; indeed, the Petitioner planned to exclude the barn from the lease entirely. Now, however, the Board is told that the child-care facility requires the barn - a structure that is more than twice the size of the average residence in Needham - to be available for storage. Further, the Petitioner's more recent submission of December 16, 2021 (Exhibit 46) claims that unless the barn is allowed to remain on the site, the Board will have "de facto denied" a permit. The Petitioner has stated on the record that it is their desire to keep the barn that is now causing them to say that it will only be used for child-care storage. While NCC now professes a need for storage, the Petitioner has not shown any reason for the child-care facility to have storage in this particular configuration. There is no reason that the Petitioner could not incorporate adequate storage into a single building with the child-care facility. There is no need for storage to be separate and apart from the child-care facility. The Board finds that applying the By-Law (specifically Section 3.2.1) prohibiting two non-residential structures on this residential property does not unreasonably impede the operation of the child-care facility, particularly when the child-care facility, as initially proposed would not have used the barn at all. The Dover Amendment is not intended to allow the Petitioner to: (i) propose a 10,034 square foot new building; (ii) irrespective of the By-Law provisions that preclude the new structure and barn on the same parcel; and (iii) then claim that the cost of removing the barn and redesigning the Plan is an unreasonable impediment, when that cost derives from the Petitioner's own initial planning choices.

1.22. The Board of Health reviewed the subject application and has noted its intent to impose the following conditions on the project:

- a. Prior to demolition, submittal by Petitioner of an online Demolition permit form along with required supplemental demolition reports, including septic system abandonment form and final pump report.
- b. Engagement by the Petitioner of a licensed pest control service company to conduct routine site visits to the site, first initially to bait the interior/exterior of each structure to be raised prior to demolition, and to continue to make routine site visits (to re-bait/set traps) throughout the duration of the construction project. Pest reports to be submitted to the Health Division on an on-going basis for review.
- c. If the project triggers the addition of any food to be served or prepped on site at the facility, a food establishment permit is required to include a review of proposed kitchen layout plans, with equipment and hand sinks noted, along with any proposed seating layout plans where applicable.
- d. Petitioner to ensure that sufficient exterior space is provided to accommodate an easily accessible Trash Dumpster and a separate Recycling Dumpster, per Needham Board of Health Waste Hauler regulation requirements. These covered waste containers must be kept clean and maintained and shall be placed on a sufficient service schedule to contain all waste produced on site. These containers may not cause any potential public health and safety concerns with attraction of pest activity due to improper cleaning and maintenance.
- e. As noted in the proposal, the Petitioner is required to connect to the municipal sewer line, once it is brought up to the property, prior to building occupancy. A copy of the completed signed/dated Sewer Connection application, which shows that the sewer connection fee was paid, shall be forwarded to the Public Health Division.
- f. No public health nuisance issues (i.e., odors, noise, light migration, standing water/improper on-site drainage, etc.), to neighboring properties, shall develop on site during or after construction.
- g. The lighting on site shall not cause a public health nuisance, with lighting trespassing on to other abutting properties. If complaints are received, lighting shall be adjusted so it will not cause a public health nuisance.
- h. The Petitioner shall meet current interior/exterior COVID-19 federal, state and local requirements for spacing of seating, HVAC/ventilation, face covering requirements, sanitation requirements and occupancy limit requirements, etc.
- i. The Petitioner shall ensure that the property is safe, which includes conducting proper soil testing of the site prior to construction, and also follow through with any necessary mitigation measures as found to be necessary, as part of this project approval.

1.23 The Board of Health will engage an independent third party, licensed site professional to conduct an independent environmental evaluation of the property. The licensed site professional will oversee the project and shall confirm that the soil testing work, along with the proposed capping work to be conducted, meets all local, state and federal requirements. The licensed site professional will conduct a complete site assessment, provide their recommendations on whether soil testing is required and what types of testing needs to be conducted due to the history of this site. This licensed site professional will also: (a) determine whether and what type of barrier or capping measures may be necessary on this site; (b) offer guidance on what mitigations are necessary in the event the soil is found to be contaminated; (c) offer guidance on what mitigations to the new building will be required to ensure the building air quality is

adequate and safe; and (d) offer their guidance on what will be required going forward to ensure the site is deemed safe for the children at this new child-care facility.

- 1.24 The Design Review Board reviewed the project and issued review memoranda dated March 22, 2021, May 14, 2021, and August 13, 2021.
- 1.25 The proposed project, as modified by this Decision, has been designed to protect adjoining premises from detrimental impacts by provision for surface water drainage, sound and sight buffers, and preservation of views, light, and air. The Board, in Sections 2.0 and 2.1 of this Decision, has requested modification of the Plan to address the zoning deficiencies detailed in Sections 1.17, 1.19, 1.20 and 1.21 above. As noted in the stormwater management report prepared by Glossa Engineering, the drainage plan will capture all the runoff from the building rooftops and most of the runoff from the paved areas and will direct the runoff into an underground infiltration basin. The design and analysis of the system is based on Massachusetts Department of Environmental Protection (Mass DEP) stormwater management regulations. A landscape plan has been developed for screening and enhancing the existing site. The lighting system for the project parking areas has been designed to comply with the Town of Needham lighting requirements. The parking area is on the side of the property adjacent to Temple Aliyah and is not close to the residential properties abutting the southern boundary of the property. No light "spillage" onto neighboring residential properties is permitted other than from headlights of departing vehicles during dusk/dawn hours in the Winter months.
- 1.26 The proposed project will ensure the convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets. As shown on the Plan, the project has been designed to ensure that there will be safe vehicular and pedestrian circulation on site. The access to and egress from the property will be via the existing driveway opening onto Central Avenue, where there are adequate sight lines up and down Central Avenue. Access to the child-care facility will use a 200-plus foot-long, 30-foot-wide access drive to Central Avenue, consisting of three lanes: an 8-foot-wide queueing lane that can accommodate ten waiting vehicles and which provides access to a drop-off and pick-up area; an 11-foot-wide entrance lane providing unimpeded access to the rear parking areas, and an 11-foot-wide exit lane. The parking area has been designed with an "island" that vehicles can circulate around so that vehicles dropping off and picking up children can continuously move forward upon entry, following drop-off and pickup, and when exiting the site. Drop-off and pick-up times for all children will be staggered, to reduce queueing on the site and to assure that queued vehicles do not negatively impact Central Avenue operations. To this end, the operator will regularly review its drop-off and pick-up schedule and will enforce such schedule among its customers.
- 1.27 Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses of the premises has been achieved. The proposed parking area complies with the Town of Needham By-Law requirements for number of spaces, illumination, loading, parking space size, location, design and number of handicap spaces, width of maneuvering aisles, setbacks, and landscaping. The parking area includes 30 spaces, which is the required number of spaces for the proposed use and the anticipated number of children and staff members. The required parking calculation is based on a formula the Town uses for this type of use, which is 8 spaces, plus 1 space for each 40 children, plus one space per staff member. Applying this formula leads to a calculated parking requirement of 29 spaces.

- 1.28 Adequate methods for disposal of refuse and waste will be provided. The project is not a major generator of refuse or other wastes. The project's waste system is connected to the municipal sewerage system. The site has been designed such that adequate methods of disposal of refuse resulting from the proposed use has been assured. A dumpster will be located at the far (eastern) end of the parking area and will be enclosed with fencing. Refuse will be regularly removed from the site by a licensed hauler.
- 1.29 The relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area follow the requirements of the By-Law. The Board in Sections 2.0 and 2.1 of this Decision has requested modification of the Plan to address the zoning deficiencies detailed in Sections 1.17, 1.19, 1.20 and 1.21 above. The matters to be considered by this Board in connection with relationship of structures and open spaces to the natural landscape, existing buildings, and other community assets in the area, have been addressed with the Plan modifications detailed in Sections 2.0 and 2.1, and the project complies with all other requirements of the Town By-Law. The gross floor area of the building is 10,034 square feet on one floor and is smaller than what would be allowed by the applicable maximum lot coverage (15%) and the applicable FAR (.30) for the Single Residence A District. In addition, this building is considerably smaller than the abutting Temple Aliyah. Further, the parking will be in the rear of the building.
- 1.30 The proposed project will not have any adverse impact on the Town's resources, including the effect on the Town's water supply and distribution system, sewer collection and treatment, fire protection and streets. The proposed use will not result in an increased demand or adverse impact on the Town's resources. The Petitioner will connect to the Town's sewer system by running, at the Petitioner's expense, a sewer main from its current closest point on Country Way, up Central Avenue to the site. Neighboring properties will have the option of connecting, at their expense, to this sewer line. The project will connect to the Town's water supply system which has adequate capacity to service the development. The Petitioner has engaged a traffic engineer to study this site and will implement the traffic mitigations measures detailed in Section 1.16.
- 1.31 The Board finds the Plan, as modified by this Decision, the Traffic and Parking Report, and the other documents submitted in connection with the application, supports Major Project Site Plan approval under By-Law Section 7.4.
- 1.32 Under Section 7.4 of the By-Law, a Major Project Site Plan Decision may be granted within the Single Residence A District provided the Board finds that the proposed use of the property by the Petitioner meets the standards and criteria set forth in the provisions of the By-Law. Based on the above findings and conclusions the Board finds the proposed Plan, as modified, conditioned and limited herein, for the site plan review, to be in harmony with the purposes and intent of the By-Law and Town Master plans, to comply with all applicable By-Law requirements, to have minimized adverse impact, and to have promoted a development which is harmonious with the surrounding area.

THEREFORE, the Board voted 4-0 to GRANT the requested Major Project Site Plan Review Decision under Section 7.4 of the Needham By-Law 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 Commissioner 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 Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any building permit or permit for any construction on the site. The Petitioner shall submit seven copies of the final Plans as approved for construction by the Building Commissioner to the Board prior to the issuance of a Building Permit.

- 2.0 The Plan shall be modified to include the requirements and recommendations of the Department of Public Works as set forth below. The modified plans shall be submitted to the Department of Public Works for review and comment, and to the Board for approval and endorsement. All requirements and recommendations of the Department of Public Works, set forth below, shall be met by the Petitioner.
 - a. The plan shall be revised to show an ADA-compliant sidewalk along the entire frontage of the property.
 - b. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced below the 30-space minimum parking space requirement. A snow storage plan shall be submitted which shows compliance with this condition and which prevents melted snow piles infiltrating abutting properties.
- 2.1 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. All requirements and recommendations of the Board, set forth below, shall be met by the Petitioner.
 - a. The Plan shall be revised to show a wooden fence at the south side of the building rather than the proposed white vinyl fence.
 - b. The exterior lighting plan shall be revised at the north side of the driveway to show four pole lights rather than the proposed three pole lights with the height of the poles reduced from 24 feet to 20 feet.
 - c. The exterior lighting plan shall be further revised, and an updated photometric plan submitted, to demonstrate that the exterior lighting complies with building code and zoning requirements and does not show light trespass onto abutting properties.
 - d. The Plan shall be revised to demolish or remove from the property the barn and to relocate the proposed building and associated fencing another 71 feet back from Central Avenue to a minimum front yard setback of 135 feet in accordance with the sketch plan shown as Exhibit 196. The drop-off area, five parking spaces, loading area and turnaround immediately beside the rear of the building are to retain their current design and placement beside the rear of the relocated building. The remainder 25 parking spaces may be reconfigured behind the relocated building. Parking on the property shall respect a 50-foot minimum setback distance along the southern property line. Parking on the property shall not be located less than 280 feet from the

property's front yard lot line on Central Avenue. All parking shall be located behind the building. The Petitioner shall have the discretion to increase the parking spaces available on the property from 30 spaces up to a maximum of 41 spaces by increasing the 25-space parking area to 36 spaces as shown on Exhibit 196. The drainage plan and storm water report shall be updated to reflect the above-noted modifications.

CONDITIONS

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 3.44 hereof.

- 3.1 The Board approves the Plan, as modified by this Decision, submitted by the Petitioner and authorizes the use of the property for one child-care facility at the premises with a maximum number of children of 115.
- 3.2 The operation of the proposed child-care facility at 1688 Central Avenue, Needham, Massachusetts, shall be as described in Sections 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13, 1.14, 1.15 and 1.16 of this decision and as further described under the support materials provided under Exhibits 1, 2, 8, 9, 10, 11, 19, 20, 23, 26, 27, 28, 37, 41, and 45 of this decision. Any changes of such above-described use shall be permitted only by amendment of this approval by the Board.
- 3.3 The hours of operation of the child-care facility shall be limited to 7:00 am to 6:00 pm Monday through Friday. No child-care operations shall be allowed on Saturday or Sunday.
- 3.4 The maximum number of children present at the child-care facility at any given time shall not exceed 115. The maximum number of child-care employees or staff inclusive of teachers, instructors and administrators present at any given time shall not exceed 18.
- 3.5 The Petitioner shall obtain and maintain compliance with all licenses required for its operation of the child-care facility.
- 3.6 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.
- 3.7 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. The building shall be used exclusively as a child-care facility. The floor plans may be modified without further review by the Board, provided that the building footprint and the square footage of the building is not increased, the maximum number of children participating in classes at any given time is no greater than 115 and the maximum number of child-care staff present at any given time is no greater than 18. All other changes, revisions or modifications to the Plan, as modified by this decision, shall require approval by the Board.
- 3.8 All buildings and land constituting the property shall remain under a single ownership and the property shall not be further subdivided.

- 3.9 Sufficient parking shall be provided on the locus at all times in accordance with the Plan, as modified by this Decision, and there shall be no parking of motor vehicles off the locus at any time. No on-site events shall cause an overflow of parking off-site onto neighboring streets.
- 3.10 A total of a minimum of 30 parking spaces and a maximum of 41 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.
- 3.11 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.
- 3.12 The Petitioner shall manage parking and traffic flow as presented with the application, and shown on the Plan, so that there is no back up of cars on Central Avenue waiting to enter the parking lots or drop-off area used by the Petitioner. If back up is a problem, the Petitioner shall take measures to eliminate any backup, such as to assign employees or staff to monitor traffic flow, student drop off or pick up or adjustment of the periods of drop off/pick up including maintaining a police detail, among other options.
- 3.13 If the Petitioner is notified by the Planning Board, based on reliable observations reported to the Planning Board, of frequent or chronic backup of vehicles onto Central Avenue from the child-care facility, it shall promptly propose, in writing to the Planning Board, a plan to remedy the situation and following Board approval shall execute the approved plan without delay.
- 3.14 As detailed in Section 1.16 of this Decision, the Petitioner shall implement the following traffic mitigation measures: (a) The Petitioner shall be responsible for securing and paying for a police detail for traffic control at the site driveway during the morning hours of 7:30 a.m. to 9:30 a.m. and the afternoon hours of 3:30 p.m. to 6:00 p.m. The detail shall remain in place for a minimum of 60 days. The detail may be discontinued thereafter upon request of the Petitioner and a finding by the Board (following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient) that the site is operating without significantly impacting operations along Central Avenue. (b) Prior to building permit issuance, the Petitioner shall provide detailed traffic signal timing plans to the Department of Public Works (DPW) for optimized operations at the Central Avenue/Charles River Street intersection for the morning and evening peak hours. The Petitioner shall further coordinate with the Town Engineer on how to implement the revised signal timings. The Petitioner shall be responsible for implementing and paying for any approved signal timing adjustments approved by the Town Engineer prior to building occupancy. (c) The Petitioner shall complete a follow-up traffic study after the site is open and operational to at least 80% of student capacity. The Petitioner shall further pay the reasonable fees of any consultants/peer reviews required for review or implementation of the above noted items.

- 3.15 The Petitioner shall not exceed the Maximum Trip Count as follows: The total Maximum Trip Count for the child-care facility is 110 trips during the weekday morning peak hour and 112 trips during the weekday evening peak hour. The Petitioner shall prepare, submit and implement a Transportation Demand Management Work Plan (the "TDM Work Plan"), that includes strategies and measures necessary to comply with the Maximum Trip Count. The TDM Work Plan shall be submitted to the Board for review and approval prior to the issuance of the building permit.
- 3.16 The Petitioner shall be responsible for verifying compliance with the Maximum Trip Count, if so requested by the Board. Such trip counts shall be conducted by a qualified professional in accordance with standard engineering methodology. The Petitioner shall be responsible for the cost of all trip counts, surveys, and required analysis. If the Maximum Trip Count is exceeded, the Petitioner shall submit a revised TDM Work Plan to the Planning Board for review and approval that shall include a narrative of how the changes to the TDM Work Plan will reduce the number of vehicular trips during peak hours and a detailed proposal of how current operations will be adjusted to secure compliance with the Maximum Trip Count standard. The Petitioner shall pay the reasonable fees of any consultants/peer reviews as are necessary for the Board to review and analyze any submitted TDM Work Plans or TDM Monitoring Reports.
- 3.17 In the event that traffic or parking problems caused by the use of the property develop that are inconsistent with what was represented to the Board at the hearing and that adversely affect the neighbors on Central Avenue, the Board may modify this Decision by imposing additional conditions in accordance with the provisions of Section 4.2.
- 3.18 The Petitioner shall be responsible for implementing and complying with the requirements of the Board of Health as detailed in Section 1.22 and Section 1.23 of this Decision.
- 3.19 The initial operator of the child-care facility at 1688 Central Avenue shall be the NCC. The Petitioner shall provide a copy of the lease agreement between the Petitioner and the NCC which confirms this operational arrangement. The operation of the child-care facility at 1688 Central Avenue by the NCC, 858 Great Plain Avenue, Needham, MA, may not be transferred, set over, or assigned by the Petitioner, to any other person or entity without such person or entity certifying they have read and understood this decision and agreeing to maintain compliance with all aspects of this decision, and 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. Notwithstanding the above, this permit may be transferred to an affiliated entity (under common control with the NCC) without Board approval or action, provided the Board is provided with a copy of the name and address of such entity.
- 3.20 All utilities, including telephone and electrical service, shall be installed underground from the street line.
- 3.21 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit, with impact fee paid if applicable.
- 3.22 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit and any grants of location that are required from the utility companies. In accordance with the recommendations of the Needham Department of Public Works

Central Avenue shall be repaved gutter to gutter in the area impacted by the sewer installation after its installation has been completed.

- 3.23 The Petitioner shall secure from the Needham Department of Public Works a Water Main and Water Service Connection Permit pursuant to Town requirements.
- 3.24 The Petitioner shall seal all abandoned drainage connections and other drainage connections where the developer cannot identify the sources of the discharges. Sealing of abandoned drainage facilities and abandonment of all utilities shall be carried out pursuant to Town requirements.
- 3.25 The Petitioner shall connect the sanitary sewer line only to known sources. All known sources that cannot be identified shall be disconnected and properly sealed.
- 3.26 The construction, operation and maintenance of any 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 Select Board.
- 3.27 The maintenance of site and parking lot landscaping shall be the responsibility of the Petitioner and the site and parking lot landscaping shall be maintained in good condition.
- 3.28 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.
- 3.29 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.
- 3.30 All solid waste shall be removed from the site by a private contractor. The Petitioner shall obtain the necessary snow removal services to keep the parking lot, handicapped space, driveway, and circular drive passable by vehicles and safe. All snow shall be removed or plowed such that the total number and size of parking spaces are not reduced and any on-site snow piles shall not infiltrate an abutting property as such snow piles melt.
- 3.31 All deliveries and trash dumpster pick up shall occur only between the hours of 9:30 a.m. and 4:00 p.m., Monday through Saturday, not at all on Sundays and holidays. The dumpster shall be screened with a wooden fence, which shall be maintained in good condition. The dumpster shall be emptied, cleaned and maintained to meet Board of Health standards.
- 3.32 All lights shall be shielded and adjusted during the evening hours to prevent any annoyance or trespass to the neighbors. The Petitioner shall adjust its driveway and parking lot lights during the night and early morning. Between the hours of 8:00 p.m. and 9:00 p.m., the Petitioner shall shut off the driveway and parking lot lights using the lights on the building to shine down and provide basic security. The building lights shall be set at a low light level to prevent any annoyance to the neighbors.
- 3.33 An ADA- compliant sidewalk shall be installed along the entire frontage of the property

with the final design approved by the Town Engineer.

- 3.34 In constructing and operating the proposed building on the locus pursuant to this Decision, due diligence shall be exercised, and reasonable efforts shall be made at all times to avoid damage to the surrounding areas or adverse impact on the environment.
- 3.35 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.
- 3.36 All construction staging shall be on-site. 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 Commissioner. No construction parking shall be on public streets.
- 3.37 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 that 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 Commissioner and the abutters and shall be contacted if problems arise during the construction process. The designee shall also be responsible for assuring that truck traffic and the delivery of construction material does not interfere with or endanger traffic flow on Central Avenue.
 - d. The Petitioner shall take appropriate steps to minimize, to the maximum extent feasible, dust generated by the construction including, but not limited to, requiring subcontractors to place covers over open trucks transporting construction debris and keeping Central Avenue clean of dirt and debris and watering appropriate portions of the construction site from time to time as may be required.
- 3.38 No building permit shall be issued in pursuance of this Decision 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 Commissioner.
 - b. A construction management and staging plan shall have been submitted to the Police Chief and Building Commissioner for their review and approval.
 - c. The Petitioner shall have submitted detailed traffic signal timing plans to the DPW for the Central Avenue/Charles River Street intersection as outlined in Section 3.14 of this decision.

- d. The Petitioner shall have submitted the Transportation Demand Management Work Plan to the Board as outlined in Section 3.16 of this decision.
 - e. The Petitioner shall have submitted a letter to the DPW identifying the measures selected and dates by which the NPDES requirements outlined in Section 3.29 of this decision will be completed.
 - f. The Petitioner shall have recorded with the Norfolk County Registry of Deeds a certified copy of this Decision granting this 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.
- 3.39 No building or structure, or portion thereof, subject to this 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 Commissioner 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 Commissioner a Certificate of Compliance signed by a registered architect upon completion of construction.
 - d. There shall be filed with the Board and Building Commissioner 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. There shall be filed with the Board a statement by the Engineering Division of DPW that the Petitioner has implemented the Town approved signal timing adjustments at the Central Avenue/Charles River Street intersection as detailed in Section 3.14.
 - f. There shall be filed with the Building Commissioner a statement by the Board approving the final off-site traffic improvements.
 - g. The Petitioner shall have submitted a copy of the lease agreement between the Petitioner and the NCC which confirms the initial operator of the child-care facility at 1688 Central Avenue to be the NCC as outlined in Section 3.19 of this decision.

- h. There shall be filed with the Board a statement by the Engineering Division of DPW that the Petitioner has met the NPDES requirement as detailed in Section 3.29 of this decision.
 - i. The ADA- compliant sidewalk shall have been installed along the entire frontage of the property as detailed in Section 3.33 of this decision.
 - j. Notwithstanding the provisions of Sections a, b, and d hereof, the Building Commissioner may issue one or more certificates for temporary occupancy of all or portions of the buildings prior to the installation of final landscaping and other site features, provided that the Petitioner shall have first filed with the Board in an amount not less than 135% of the value of the aforementioned remaining landscaping or other work to secure installation of such landscaping and other site and construction features.
- 3.40 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 Select Board, Building Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health, and the Massachusetts Department of Early Education and Care.
- 3.41 Any blasting conducted at the property shall require approval by the Needham Fire Department in accordance with Massachusetts Comprehensive Fire Safety Code, 527 CMR 1.00.
- 3.42 No building or structure authorized for construction by this Decision shall be occupied or used, and no activity except the construction activity authorized by this Decision 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 Commissioner.
- 3.43 The Petitioner, by accepting this 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.
- 3.44 Violation of any of the conditions of this Decision shall be grounds for revocation of this Decision, or of any building permit or certificate of occupancy granted hereunder. In the case of violation of the continuing obligations 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 Owner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Owner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in revocation of this Decision. As an alternative, the Town may enforce compliance with the conditions of this decision by an action for injunctive relief before any court of competent jurisdiction. The Owner agrees to reimburse the Town for its reasonable costs in connection with the enforcement of the conditions of this Decision.

LIMITATIONS

- 4.0 The authority granted to the Petitioner by this Decision is limited as follows:
- 4.1 This Decision 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 Decision 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 Decision 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 Review Decision shall lapse on February 1, 2024, 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 February 1, 2022. The Board herein reserves its rights and powers to grant or deny such extension without a public hearing. The Board, however, shall not grant an extension as herein provided unless it finds that the use of the property in question or the construction of the site has not begun except for good cause.
- 4.8 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 Review Decision 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 Decision does so at the risk that a court will reverse the Decision and that any construction performed under the Decision may be ordered undone.

The provisions of this Decision 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 February, 2022

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairman

Adam Block

Martin Jacobs

Jeanne S. McKnight

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss _____ 2022

On this _____ day of _____, 2022, before me, the undersigned notary public, personally appeared _____, one of the members of the Planning Board of the Town of Needham, Massachusetts, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the proceeding or attached document, and acknowledged the foregoing to be the free act and deed of said Board before me.

Notary Public

My Commission Expires: _____

TO WHOM IT MAY CONCERN: This is to certify that the 20-day appeal period on the approval of the Project proposed by Needham Enterprises, LLC, 105 Chestnut Street, Suite 28, Needham, MA, 02492, for Property located at 1688 Central Avenue, 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 Commissioner
Conservation Commission
Parties in Interest

Board of Selectmen
Engineering
Fire Department
Police Department

Board of Health
Director, PWD
Design Review Board
Evans Huber

January 31, 2022

Lee Newman
Director of Planning and Community Development
Public Services Administration Building
500 Dedham Ave
Needham, MA 02492

Re: 1688 Central Avenue, Needham

Ms. Newman:

I am writing to provide the applicant's comments on the draft decision you sent me at the end of the day last Thursday. At this point, and given that time is short, I am not including relatively minor comments on such things as incorrect numbers or statements of fact, typographical errors, and the like. Instead, I am confining the applicant's comments to some of the conditions in the draft decision. I ask that you forward this letter to the members of the Board.

It is no secret that the applicant has vigorously opposed a number of the conditions that are currently included in the draft decision, so it should be no surprise to the Board that if the decision stays as currently drafted, the applicant will appeal. In a final effort to get to a decision that all sides can live with, we are listing below two categories of conditions; the first are a group that the applicant cannot agree to, and will appeal if they are included in the final decision. The second group includes conditions that the applicant believes the Board does not have the authority to impose, either because they are beyond the scope of the "reasonable regulations" allowed by the Dover Amendment, or, if within that scope, are unreasonable as drafted.

With respect to this second group, the applicant will nevertheless agree not to appeal their inclusion in the decision, in some cases with modifications described below, if the conditions in the first group are eliminated. If the Board chooses to include conditions in the first group in the final decision, then the applicant intends to appeal all such conditions in the first and second group.

In addition, it is the applicant's position that, as we believe you have been advised by Town counsel, the Board cannot condition this decision on further approvals by this Board. There are a number of conditions in this draft decision that require further approval of this Board, or which give the Board the ability to take such unspecified actions as it deems fit "in its sole discretion," including presumably, effectively suspending or curtailing the applicant's or tenant's ability to operate at the site. These include conditions found in sections 1.16, 3.15, 3.16, and 3.17 of the draft decision. We believe that any such conditions are facially invalid, and will result in a *de facto* grant of the special permit by failure of the Board to take final action on this application within 90 days of December 8, 2021, the date on which the public hearing was closed.

Lastly, please note that most if not all of the conditions discussed below appear in more than one section of the draft decision. The section references below are not intended to be a complete list of each place that a given condition appears in the draft decision.

Group I, conditions that the applicant intends to appeal if included:

2.1(d) the plan shall be revised to demolish the barn and relocate the proposed building to a 135-foot setback, per plans to be submitted to the Board for approval and endorsement.

The Board makes two arguments for including the requirement that the barn be demolished. The first is that Bylaw prohibits more than one non-residential structure on a lot. However, the Appeals Court decision in *Petrucci v. Bd. of Appeals of Westwood*, 45 Mass. App. Ct. 818 (1998) compels the conclusion that the Needham zoning bylaw that would otherwise preclude more than one non-residential structure on a lot in this district is superseded by M.G.L. c. 40A, § 3: “Even were the board correct in its assertion that the Westwood by-law does not permit multiple primary uses on a single lot, such a prohibition is exactly what the statute [c.40A sec. 3] declares impermissible with respect to child care facilities.” *Id.*, 45 Mass. App. Ct. at 822.

The Board also asserts that the barn doesn’t qualify as an accessory structure because it is not “customary” to have a building of this size as an accessory structure for a child care facility. This argument is wrong for two reasons. First, if we are correct about the effect of *Petrucci, supra*, then the question of whether the barn qualifies as an “accessory structure” is moot. If the applicant is allowed (because of the Dover Amendment) to have more than one non-residential structure on a lot as long as such structures are being used for the “primary, accessory, or incidental purpose of operating a child care facility,” M.G.L. c. 40A, section 3, then the barn doesn’t have to qualify as an “accessory structure” as defined in the Bylaw.

Second, the definition in section 1.3 of the Bylaw states that the “use” (in this case, storage) must be customarily incidental to the principal use. That means that if the building is devoted exclusively to a use (storage) that is customarily incidental to the principal use (child care facility), which is the case here, then it qualifies as an accessory building. The term “customarily” does not refer in any way to the size of the accessory building; only to whether the use (storage) is customarily incidental to the primary use. There is no plausible argument that storage of materials, supplies, toys, equipment, outdoor furniture and the like is not “customarily incidental” to the operation of a child care facility.

If the applicant is correct that the Board cannot require the demolition of the barn, then imposing a 135-foot setback requirement is not feasible; and even if it was feasible, it is an unreasonable imposition of additional cost on the applicant to achieve a modest additional municipal benefit. If the municipal interest to be served is to reduce the visual impact of the building, a requirement of additional vegetative screening would be a far more reasonable approach.

3.8 all buildings and land must remain under single ownership, and the property cannot be further subdivided.

Not only has this condition never been discussed during the public hearing process, but it is patently unreasonable. It imposes a potentially huge financial penalty on the applicant, and any municipal interests that this condition seeks to promote are fully protected by the subdivision control law and Town regulations governing that process.

3.19 The operation of the child care facility may not be transferred or assigned to another operator (after Needham Children’s Center) without prior written approval of the Board, in its sole and exclusive discretion, after such notice and hearing as the Board may require.

This condition is clearly beyond the scope of the Board's authority; it seems self-evident that if another operator were before the Board with the identical proposal, and the Board were to impose identical conditions, that the Board would not have the authority to deny the Special Permit to a different operator simply because the Board did not like that operator. Further, it is unreasonable. While the applicant fully expects the Needham Children's Center to be a long-term tenant, there is no guarantee of what will happen to any business or tenant in the future. If Needham Children's Center can no longer be the tenant, for whatever reason, the Board cannot choose to render the site unusable by refusing to approve a new operator, who would be bound by the same conditions in the Special Permit.

Group II, conditions that the applicant believes the board does not have the authority to impose, and/or are unreasonable, but will nevertheless agree not to appeal if (a) the conditions listed in Group I are removed from the decision, and (b) in some instances, as specified below, the conditions are modified:

1.16 (a) A Police detail will remain in place for a minimum of 60 days, commencing on or after the opening of the child-care facility. The detail may be discontinued thereafter upon request of the Petitioner and a finding by the Board (following such notice and hearing, if any, as the Board, in its sole and exclusive discretion, shall deem due and sufficient)

Subject to the elimination of the items in Group I, the applicant would agree not to appeal this condition if the termination of the police detail is determined by the Needham Police Department, as recommended by the Town's peer reviewer. The proposed hours of the detail are also excessive.

1.16 (c) (c) The Petitioner shall complete a follow-up traffic study after the site is open and operational to at least 80% of student capacity. The Petitioner shall further fund a peer review of this post occupancy traffic study.

This condition is unreasonably vague as written. What is the traffic study to include? What is it supposed to show? What would be a satisfactory conclusion of the traffic study? Subject to the elimination of the items in Group I, the applicant would agree not to appeal this condition if the purpose, scope and goal of the study is defined.

3.15 and 3.16; conditions relating to Maximum Trip Count.

These conditions are entirely new; beyond the Board's authority under the Dover Amendment, and unreasonable. They are an invitation to continuing the contentious hearing process that has been going on for over 9 months; impose additional unnecessary cost on the applicant, and unreasonably suggest that the applicant's (or tenant's) ability to operate the facility can be jeopardized if a single event of exceeding a "maximum trip count" happens to occur. Nevertheless, subject to the elimination of the items in Group I, the applicant would agree not to appeal this condition if the applicant is not once again required to pay for peer review of the work done by its own traffic engineer in complying with this condition.

3.17 In the event that traffic or parking problems caused by the use of the property develop that are inconsistent with what was represented to the Board at the hearing and that adversely affect the neighbors on Central Avenue, the Board may modify this Decision by imposing additional conditions in accordance with the provisions of Section 4.2.

This condition is so vague as to give the Board the ability to impose whatever conditions it wishes in the future. What are “traffic or parking problems”? We have heard neighbors say that the addition of one additional vehicle on Central Ave will cause a problem, so we know that some people who live in that area will assert that this condition is triggered on the first day of operations. Nevertheless, subject to the elimination of the items in Group I, the applicant would agree not to appeal this condition if it is given greater definition as to what “traffic or parking problems” would trigger this condition, and what “additional conditions” the Board could impose.

3.4 The maximum number of children present at the child-care facility at any given time shall not exceed 115. The maximum number of child-care employees or staff inclusive of teachers, instructors and administrators present at any given time shall not exceed 18.

The applicant has previously stated that it will agree to a cap of 115 children (and the figure of 18 staff derives from that number and NCC’s anticipated age mix of children). This was done in the spirit of alleviating neighbor concerns about an excessive number of children and not because the Board has the authority to impose such a limit. See *Primrose Sch. Franchising Co. v. Town of Natick*, No. 12 MISC 459243 AHS, 2015 WL 3477072, at *9 (Mass. Land Ct. May 29, 2015)(“ In view of the foregoing, G.L. c. 40A, § 3, ¶ 3 did not give the ZBA authority to limit the amount of students that the Facility may house as a means of reducing vehicular traffic to and from Locus . As such, I find that Condition 4 is unreasonable to the extent that it purports to condition approval of the Project upon a cap in the maximum number of enrollees in the Facility.”). Nevertheless, if the items in Group I are eliminated, the applicant would agree not to appeal this condition.

3.33 An ADA- compliant sidewalk shall be installed along the entire frontage of the property with the final design approved by the Town Engineer.

The applicant has previously stated that it will agree to this condition, even though the applicant considers it unreasonable in light of the condition of the “sidewalk” all along this portion of Central avenue in both directions from the site. Nevertheless, if the items in Group I are eliminated, the applicant would agree not to appeal this condition.

Based on the way these hearings have gone, Needham Enterprises is not optimistic that the Board will agree to remove the conditions in Group I. For this reason, we have not gone into a lot of detail about proposed modifications to some of the conditions in Group II. If we are wrong about that, we would be happy to engage in further discussion with the Board about the language of the conditions in Group II, all of which Needham Enterprises will agree to in some form if the conditions in Group I are eliminated from the decision.

Thank you for your consideration of the points raised in this letter. As time is short and I am not in the office, I am submitting this to you with my italicized name representing my actual signature.

Sincerely,

/s/ Evans Huber

Evans Huber, Esq.

From: [Evans Huber](#)
To: [Lee Newman](#)
Cc: [Alexandra Clee](#)
Subject: RE: Applicant's Comments on 1688 Central Ave draft decision
Date: Tuesday, February 1, 2022 11:06:22 AM

Lee: Thanks for your confirmation of receipt.

As a follow up on the email and attached letter I sent you yesterday evening there is another issue that the applicant would like to bring to the Board's attention regarding the draft decision.

The Draft decision includes certain provisions regarding connection to, and use of, the Town's sewer system for the site. Indeed, the Applicant had proposed this aspect of the project. However, even if we are able to avoid an appeal of the decision, it will no doubt include a number of conditions that impose significant additional cost on the applicant, and which were not part of the applicant's planning and budgeting process. For this reason the applicant requests that the Board modify the decision relating to the sewer connection so that the applicant has the option of using an on-site septic system instead. If utilized, the design and construction of such a system would, of course, have to be approved by the appropriate Town departments. The relevant portions of the decision as currently drafted are:

- 1.30 (partial) The Petitioner will connect to the Town's sewer system by running, at the Petitioner's expense, a sewer main from its current closest point on Country Way, up Central Avenue to the site. Neighboring properties will have the option of connecting, at their expense, to this sewer line.
- 3.12 The Petitioner shall secure from the Needham Department of Public Works a Sewer Connection Permit, with impact fee paid if applicable.
- 3.13 The Petitioner shall secure from the Needham Department of Public Works a Street Opening Permit and any grants of location that are required from the utility companies.

Please bring this request to the Board's attention. Thank you, Evans

Evans Huber
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eh@128law.com
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From: Lee Newman <LNewman@needhamma.gov>

Sent: Monday, January 31, 2022 6:08 PM
To: Evans Huber <eh@128law.com>
Cc: Alexandra Clee <aclee@needhamma.gov>
Subject: RE: Applicant's Comments on 1688 Central Ave draft decision

Received. I have sent it on to the Board.

Lee

From: Evans Huber <eh@128law.com>
Sent: Monday, January 31, 2022 5:19 PM
To: Lee Newman <LNewman@needhamma.gov>
Cc: Alexandra Clee <aclee@needhamma.gov>
Subject: Applicant's Comments on 1688 Central Ave draft decision

Lee; please see attached letter. Give the limited time we have had to review the draft decision, and logistical constraints imposed by the pandemic, I am not able to submit the attached letter on firm letterhead, nor with my original signature. Nevertheless, the attached letter should be treated as coming from my office, and containing my signature.

Thank you, Evans

Evans Huber
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From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: Fwd: From Pat Day
Date: Tuesday, February 1, 2022 9:56:44 PM

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Pat Day <patriciaday1@me.com>
Sent: Tuesday, February 1, 2022, 4:45 PM
To: Lee Newman
Subject: From Pat Day

Hi Lee,

I know that you are busy, so I thought a short memo might be helpful.

I'm hoping that Town Counsel will be available to advise the Planning Board members if needed.

Concerning the Review Decision

I know this is just a lot of work and brain power to draft after all this time so I can limit my comments

3.3

It may not be significant however

“No child-care operations....”

Administrators work on weekends especially during licensing and accreditation for brief periods. EEC regulations concerning ratios and schedule make most trainings ; CPR and First Aid, Security, Intruder Training, and short term special events happen for a few hours infrequently from 5:30 to 7 in the evening or on Saturday afternoons. This is probably just a few times a year; so parents and grandparents in a certain program can attend. It's not whole NCC families and certainly not frequently. Super cleanings, regular cleaning happen on the weekends as does maintenance such as painting and playground cleaning; painting, adding mulch, fence repair. It all has to happen while children are not present.

Could it read “no regularly scheduled child care shall be allowed on Saturday or Sunday

3.4

As there is one extra space due to the Needham Parking By-Law formula, could the Planning Board allow that one space to have flexible use such as an OT or Speech Therapist that might need to come in on off-peak hours to work with a child? Could the language in 3.4 reflect that

3.31

For more than 30 years we have the same company pick up the trash between 7-7:30 once or twice a

week. This is a safety issue we established long ago. As a child who grew up in Needham, I still remember the tragedy at Stephen Palmer when I was very young.

Could it read “7-4:30”?

That’s it

Best,
Pat

NEEDHAM PLANNING BOARD MINUTES

April 20, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Jeanne McKnight, Chairman, on Tuesday, April 20, 2021, at 7:15 p.m. with Messrs. Alpert, Jacobs, Owens and Block, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Ms. McKnight took a roll call attendance of the Board members and staff. She noted this is an open meeting that is being held remotely because of Governor Baker's executive order on March 12, 2020 due to the COVID Virus. All attendees are present by video conference. She reviewed the rules of conduct for zoom meetings. She noted this meeting includes public hearings and there will be an opportunity for public comment. If any votes are taken at the meeting the vote will be conducted by roll call.

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

VOTED: to automatically continue the meeting to 4/21/21 at 5:30 p.m. with the same zoom ID number if any technical difficulties arise that keep the Planning Board from continuing this meeting tonight.

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

VOTED: to authorize the Vice-Chairman to continue the meeting if the Chairman has technical difficulties.

7:20 p.m. – Major Project Site Plan Special Permit No. 2020-04: WELL LCB Needham, Landlord LLC, c/o LCB Senior Living, 3 Edgewater Drive, Suite 101, Norwood, MA 02062, Petitioner (Property located at 100-110 West Street, Needham, MA). Regarding redevelopment of the property to include an 83 unit Assisted Living and Alzheimer's/Memory Care facility and 72 Independent Living Apartments.

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 waive the reading of the public hearing notice.

Roy Cramer, representative for the applicant, gave a brief summary including the zoning relief requested and the traffic analysis. He noted the zoning was changed last Fall at the last Town Meeting to the Avery Square Overlay District, which enabled this project to go forward. This is 4.29 acres at the corner of Highland Avenue and West Street. The building formerly was Avery Crossing with 60 assisted living units, Avery Manor with 142 skilled nursing units and 8,300 square feet of medical office. Almost all the site building is in the Avery Square Business District. The building has been vacant since 2017. It is a 3 story, 186,000 square foot building with an indoor parking area.

The original permit was issued in 1993 for assisted living and skilled nursing. The last decision was in 2004. There were 72 independent living apartments, 55 assisted living units and 28 memory care units. The existing building is to remain and the footprint does not change. A partial fourth story will be added to create 10 independent living apartments. The fourth floor will be well back from the walls of the building except for the west side along the tracks. The south parking lot is unchanged except for the addition of landscaping. The other parking lot will have minor changes. There are 149 parking spaces on site with 115 exterior spaces and 34 garage spaces.

Mr. Cramer reviewed the requested relief under Section 7.4; Section 1.4.6, for a building less than 50 feet from a residential boundary; Section 4.4.9, which it predates, for the location of the primary entrance; and 2 Special Permits for use for assisted living/memory care and independent living apartments and multiple uses. There is no waiver

for the number of parking spaces as the outside parking conforms. For the inside parking width of maneuvering aisles there are many steel supports that are 16 feet, 8 inches apart. That would be the width of the maneuvering aisles. He stated the applicant would like 5 tandem spaces in the garage under Section 5.1.3 (h). The intention is to limit those spaces to independent living if someone has 2 cars. He submitted a letter that reviews the criteria.

David Kelly, of Kelly Engineering Group, noted this is just a redevelopment of the existing site. There is a right of way on the south side of the site. He reviewed the property and accesses. Currently people enter from West Street. There are parking spaces on the left and right of the drive. There is a gated landscaped area on the left, then a drop off area, another landscape area, the gazebo and then the entry to the garage. The entry will be removed. The landscaping is tired. Currently people travel through the garage with an exit or entry on the south side parking lot, which is accessed by Highland Avenue. He showed the landscaping plan. The building will be completely renovated. He reviewed the parking spaces and noted 28 parallel spaces on the street that are not being counted.

Mr. Kelly noted the project will add 4 spaces on the left when entering off West Street and one on the right closest to the entry door. As you continue through the site the landscaping will be enhanced. The parking will continue on the right and left sides. There will be an enhanced entry and a service area will be at the location of the old garage entry. There will be screened dumpsters and a loading area. The cul-de-sac will be improved and widened slightly. There will be a new entry at the elbow of the building and a one-way exit from the garage to the cul-de-sac. There are patios proposed for outside space for the lower level units.

Mr. Kelly noted for storm drainage, it is a developed site and all utilities are available on site. He has worked with the Department of Public Works (DPW). There are no capacity issues. The lighting is a modern new lighting system with energy efficient downward facing LED fixtures. There will be safety lighting for the residents and no spillage. He showed the types of fixtures being used. Mr. Cramer stated he met with the Design Review Board (DRB) and approvals were issued. Ben LaFrance, of Hawk Design, Inc., noted the landscaping is 20+ years old. It is unkempt and unmaintained. The project will remove a lot of plantings and will retain a lot of flowering trees. They have created an appropriate landscape setting with a range of colors and sizes. Most are natural species and all are non-invasive.

Mr. LaFrance stated, on the south, most trees and shrubs will be retained. The landscaping along the rail line will be supplemented with evergreens to help give it a buffer. There will be ornamental grasses and plantings. There will be 5 private unit patios along the south side and windows will be added. On the Highland Avenue façade there will be red maples and Sargent cherries that will complement the building while softening the mass. There will be unit terraces along Highland Avenue where they can be. The streetscape will be enhanced with many varieties of plants such as summer sweet ~~and~~ boxwood ~~berry~~ and ~~iberman~~. He worked with the DRB's Nelson Hammer who was pleased with the variety.

Mr. LaFrance noted, along West Street, the birch terrace will be retained with the retaining wall. All plantings will be replaced. It will be a nice backdrop while creating a buffer. The west side of the courtyard will be a memory care courtyard with an 8-foot high fence, concrete terrace and a walkway with colorful plantings. There will be emerald green arborvitae to soften the façade of the fence. On the railroad side, there are 2 drop off areas with concrete pavers to designate the area. There will be a meandering walkway that will interconnect many spaces. There will be walk through landscaped areas. The resident gazebo area will be expanded and parking spaces have been relocated to expand the amenity space. There will be a grill area, fire pit, bocce court, water amenity and grassy area. The plantings in the area will be supplemented.

Michelle Hobbs, architect with the Architecture Team, showed aerial views. She noted the footprint is the same and a fourth floor will be added and will be set back. She walked through the plans and elevations. The formal entry is off West Street. The ell section will have a new exit. The memory care/assisted living will be on the right and the independent living will be on the left side with a portico area. A loading area will be in the center in the main core of the building. The site utilities such as the generator will remain where they are. The project is bringing in natural light and reintroducing windows on Highland Avenue to liven up the façade. The goal is to create gardens,

solo and shared, and an assisted living area with an outdoor terrace. Walls and doors will define the space and skylights may be added.

Ms. Hobbs discussed elevations. The project will open up closed doors and reintroduce windows. The focus is on livening up the Highland Avenue façade. The fourth floor will be fiber cement panels. They are working with existing lines and traditional stacking of bricks. The existing portico will be cleaned up. The garage entrance will be closed off and large windows added. She showed the existing and the proposed. She noted there will be some screening involved. Entryways to drives will be livened up. She noted a mechanical screen has been thought of as part of the design. There is a 2½ foot grade change from the front to the back. A small retaining area is being created. Mr. Alpert asked if there is any ability to make the building energy efficient. Ms. Hobbs stated the plans are still in development and she is looking at options. Lee Bloom, of LCB Senior Living, stated the windows are being evaluated and charging stations will be put in the lots. He stated he has not looked into solar but they are looking at all components for energy efficiency.

Eric Fredette, of Mann Associates, stated a full impact study was done and revised in February. The weekday a.m. and p.m. peaks were done at Highland and West, Hillside and West and the project driveways. The pre-Covid data was used with additional counts from 2019. Crash analysis was done at all intersections. Some safety issues were identified and some improvements are being spearheaded by the Town. He noted nearby amenities and existing pedestrian access. The town grant proposal approved would be state dollars and not town dollars. West Street at Hillside Avenue is part of the MASS DOT Complete Street Funding Program with pedestrian improvements. This will be funded in 2022. For Highland Avenue and West Street, the Town is drawing infrastructure and traffic signal improvements that are included in future analysis. Nursing facilities and medical offices generate more than the independent living and assisted living so the previous use had much higher travel. The peak parking demand is 81 spaces. The project is a lower traffic generator. There is no change, or minimal change, in Level of Service at the intersections and site drives.

Mr. Block clarified this is an enhanced use of the existing building and a reduction in bed and traffic generation. He noted there will be no change in the Level of Service at Highland and West and asked in comparison to what. Ms. Fredette noted it is based on the 2019 counts. This does not include trips from the previous land use. Mr. Block asked if it was December 2019 and was informed yes, they looked at seasonal data from MASS DOT to make adjustments to the traffic volumes. Mr. Block asked how the data was adjusted. Ms. Fredette noted she adjusted the volumes upward by 4% to represent an average month. She noted she really looked at traffic patterns and estimated 35% from the north and 50% from West Street. This is a representation of all employees, visitors and residents. The number of trips is so low. There are 2 site driveways so she is talking less than 5 vehicles at any location. Mr. Block asked what location sites the 2021 counts came from and was informed the intersection of West and Highland and it was adjusted upward for seasonal volume.

Mr. Block noted the grill space and asked if it was to be used for memory care or independent. Ted Doyle, of LCB Senior Living, stated the grill space would be for the assisted living/independent living. It will not be for memory care due to a safety standpoint. Mr. Block asked what level of LEED there was. Mr. Bloom stated the project can certify but they do not go through the process. Most of his buildings end up at silver. Mr. Block asked what additional drainage impacts there would be with the addition of a fourth floor and is there enough capacity for water and sewer. Mr. Cramer stated right now there is a roof. There will be the same square footage. Mr. Kelly noted he reviewed the entire project with the DPW. The calculations of water and sewer are a function of the number of units which are reduced by 30% in the project.

Mr. Jacobs stated he likes the project very much and is in favor. He has one concern with the increased pedestrian traffic across West Street to get to the Senior Center. Some pedestrian improvements at West and Hillside are town planned and state funded. What are these improvements and do you think it will be enough to keep people safe? Ms. Fredette stated it is a MASS DOT prioritization plan at West and Hillside. The brick inlay will be removed and pedestrian refuge islands will be provided that will be about 6 feet in width. A high visibility crosswalk will be constructed across West Street. There are no pedestrian markings today. She suggests installing a pedestrian warning light system, signage and warnings for solar glares. ADA compliant ramps will be installed at all sides.

Pedestrian islands will narrow the roadway and slow cars. Mr. Jacobs asked if that is enough. Ms. Fredette noted it is enough from a pedestrian perspective. The design team will ultimately design and get approval from the Town. Any safety improvement is important and she would not do anything different. It is a difficult location with the railroad tracks. She feels the pedestrian improvements encompass safety improvements.

Mr. Jacobs asked why the 2019 traffic volumes were chosen as the building was empty. Ms. Fredette stated there was data from the Add-A-Lane project but the data was too old. The 2019 data was more representative. There was ITE data from previous uses and that is what was used. Mr. Alpert noted pedestrian traffic would be crossing West Street to go to Café Fresh or the pizza place and crossing back to the park. He asked if Ms. Fredette could describe how the traffic improvements would improve pedestrian access at that intersection. Ms. Fredette stated she could not really say. The draft from the Town only looked at lane configuration changes. An issue of timing for crosswalks was mentioned and that is being looked at by the Town. Mr. Alpert noted, for pedestrian access, this is a great location.

Ms. McKnight stated she did not see the lights presented for the parking area. She wants to make sure the lights are downcast. Mr. Bloom noted the lights are curved pole lights and bollards close to the building. He showed pictures of the lights. Ms. McKnight asked if the patios on Highland Avenue would be below grade and was informed the patios would be below grade. She noted there are very large trees presently. She is glad to hear Mr. Hammer on the Design Review Board is pleased with the trees. Mr. LaFrance noted the red maples have a certain maximum growth on the southern side so they can spread out more. There will be Colonial Sargent Cherries on the north side. They will have a 10 to 12-foot spread at maturity. The 3 to 3 ½ inch caliper will be around 15 feet high when they go in the ground.

Ms. McKnight stated the zoning for the overlay district has an affordable housing component. 12½% of the independent units must be affordable, which would be 9 units. She asked if they are in proportion to the bedroom sizes of the project. Mr. Bloom stated it is the gold standard. He is working on the regulatory agreement. He has engaged S & D Housing who have come up with an affordable housing plan. They need to match units for 12½% of each type of unit. The applicant determines the units then the state will look at it. There will be one ground floor, 4 second floor and 4 third floor units. He has spoken with Karen Sunnarborg. Ms. Newman stated she would like a copy of the draft of the Fair Housing Market Plan. Mr. Cramer stated he would not like to have a draft out there. The sellers counsel Louise Giannakis noted the units are in the agreement themselves. DHCD is involved and approves the plan. Ms. Newman stated she needs the specifics on the number of units and locations. Mr. Bloom commented he cannot know until the state approves it. Ms. Giannakis noted she will work with the Planning Director to make sure it is clear.

Ms. McKnight asked if the developer is opting for setting rents for affordable units at 50% of median income or 80% median and was informed it would be 80% of the median. Mr. Block stated there was a drainage project near this site at West and Highland. The DPW has recommended including a stormwater recharge station. Mr. Cramer followed up with that. Engineering was giving a heads up that in the future the EPA may change the rules and regulations to require a stormwater recharge station. There is no requirement now and they would rather not do the work now. They would like to stick with the law at present. Ms. McKnight stated Mr. Cramer was referring to a 4/14/21 letter to the Planning Board from Assistant Town Engineer Thomas Ryder with comments and recommendations. Engineering suggested the applicant provide stormwater recharge on site. It is not a requirement at this time but would be advantageous while the site is under construction. Mr. Bloom stated there is not an excavation of the parking lot and no new construction. He stated, if successful, they would break ground at the end of this year and, with 2 years of construction, open in 2023.

Mr. Kelly stated the result comes from a lawsuit the Charles River Watershed Association filed against the EPA claiming they are not protecting the watershed. The EPA tried this in 2007 and dropped it. Ms. McKnight stated the existing facility may have a sump pump that may need to be renewed. Mr. Kelly stated it is being reviewed. Once the drainage work is done the sump pump may not be needed. Ms. McKnight noted correspondence from the Board of Health. Mr. Bloom stated he spoke with them regarding modifying dumpsters and standard conditions such as the kitchen and swimming pool, and they were. ~~She was~~ pleased. There will also be pest control since the

building is vacant. There were comments of the buffering along the tracks and there was a response it will be preserved. The Board of Directors of the Village Club sent a note of approval with comments, the Fire Department had no issues; the DPW had comments and the Police had no concerns except with the parking of workers.

Mr. Alpert noted the traffic study concentrates on West Street. Access to the lot on the south side is across from Morton Street with parking along Highland Avenue. The sidewalk juts out just before the lot entry and there is a tree. He would like to hear about the use of that entry/exit, how much use, the interaction with Morton Street and the sightsite lines coming along Highland Avenue. Ms. Fredette stated it is about 50/50 between the 2 intersections. She estimates 5 cars on Highland Avenue turning into the site and 6 leaving the lot to Highland Avenue south per hour. The sight lines are primarily obstructed by on site parking. Mr. LaFrance noted looking to the left to the existing island between the sidewalk and street it holds the parallel park cars back a little. The existing tree has a low branch flowering tree. They will be adding a low branch shade tree there.

Ms. McKnight opened the hearing for public comment. Joni Shockett, of 174 Evelyn Road, asked the number of employees on site. Mr. Cramer stated there would be 58 employees on an 8-hour shift which includes full and part time staff. Ms. Shockett asked if individuals could hire their own staff and was informed they can. She asked if the parking takes the employees into consideration. It does take employees into consideration. She asked if there would be truck deliveries 7 days a week. Mr. Bloom stated there is a 24-foot box truck 3 times a week at most. The residents do not want to hear trucks. Ms. Shockett asked about parking for visitors. Mr. Bloom stated the demand for employees is 80 to 90. He is comfortable with the number of spaces available for visitors. If there is a major event he will make a deal with someone not open on that day and will valet.

Michael Weintraub, owner/representative for 460 Hillside Avenue, noted he is across the tracks. He stated it was a nice presentation and nice questions from the Board members. He has a few concerns. He noted Mr. Block and Mr. Jacobs addressed some concerns. He asked, regarding drainage, if there was a sense of the estimated number of gallons per unit or total gallons versus previous. Mr. Bloom noted the DEP Design Flow is 150 gallons per bed per day. Mr. Kelly stated there is no change in stormwater runoff and no change in pervious surface. Mr. Bloom noted there is a reduction from the prior use. The real average is 80 gallons per unit but they need to design for 150 gallons per unit. Mr. Weintraub noted the transportation traffic study. He is concerned about the inflow and outflow to West Street. He is not convinced there will be a lesser amount of traffic than previous. There will be ambulances and fire trucks going in and out and the railroad tracks. He is raising this as a concern. He is not overly satisfied the traffic study is as complete as it could be. He is pleased with the pedestrian walkways. Mr. Bloom stated he is very comfortable the uses proposed have lower traffic.

Mr. Weintraub noted he is concerned with the fourth floor and asked the additional height. Mr. Bloom stated 44 feet to the top of the roof and some additional feet for the mechanics. Mr. Weintraub then stated he has a concern with the blockage of view and sunlight. He asked if any impact studies have been done for the abutting properties. Ms. McKnight stated they have not been provided with shadow studies. It seems the rising sun will go through the parking lot to his building. Ms. Hobbs stated, based on the orientation, Highland runs north to south. The setback is pretty substantial on the fourth level. There will be little to no impact as pertains to his building. Mr. Weintraub stated he is not convinced of shadows but it is actually the view he is concerned about. A rise would be impactful from a light and view standpoint. He would be happy to show anyone. Mr. Block asked Mr. Bloom how tall the fourth floor is. Mr. Bloom stated it is 10 feet off the roof line. Ms. Hobbs noted some existing mechanics are about 41 feet tall and they would have 44 feet plus or minus for the elevator overrun. Mr. Weintraub stated Verizon and AT&T are on his rooftop. They are checking with their engineers to verify if signals would be bothered.

David Sherman, of 100 Rosemary Way, stated he is a nurse in ICU and has experience in ERs. He has no issue with the outside of the plan. We are in the middle of a pandemic and it is not done yet. Avery Manor was thought of as a possible overload site for pandemic casualties. He feels it would be wise of the Board it be conditional that 5 to 10 beds be put aside for mass casualty victims. Mr. Bloom stated this is all private pay. They will work with the community but cannot provide those services. They would not accept those conditions in the decision. Mr. Sherman stated LCB should not provide them, just hold the space available. Ms. McKnight stated there is a question

whether any condition like that could be put in a Special Permit. It goes beyond the types of things the Board could consider. Mr. Sherman reiterated he feels it would be good planning to have a small number of spaces reserved.

Pam Fernandes, a 25-year resident in the Heights and currently at 300 Second Avenue, noted pedestrian safety. She lived close to Trader Joe's for 20 years. She is visually impaired so pedestrian safety is a concern. She likes that the project can feed into the Senior Center in the Heights but pedestrian traffic is an issue. She lived on Hillside and Alfreton and she reported 3 accidents when she lived on Hillside Avenue. The intersection is quite bad. There may be flashing lights but they may want to consider an auditory system as well. A lot of people may have reduced vision. She noted the driveway onto West Street and asked if there was a way to stop cars from lining up bumper to bumper. She feels they should try to manage that area. West and Highland have auditory signals but rights on red cause issues. Also, auditory signals are just not long enough. She wanted to mention these issues. Ms. McKnight stated this applicant is not responsible for that. She has heard the timing of pedestrian signals seem to be off at Highland and West. The Planning Board can keep that in mind and use influence if they can. Mr. Jacobs suggested the comments be forwarded to the town authorities who are putting into place the systems. Ms. Newman will coordinate with Ms. Fernandes and forward her concerns to the DPW, Engineering and traffic advisory.

Molly Lyne, of 323 Hillside Avenue, is in favor of the project. She thanked Mr. Bloom. She feels this is great for the neighborhood. She assured Mr. Weintraub she does not think his light will be affected. Artie Crocker asked if there will be any sound proofing on the windows for residents with the trains. He agrees with Ms. Fredette regarding the rise of the sun. There will be zero affect for the building with solar panels and minimal effect on the other building. Mr. Bloom stated they are working with an acoustical consultant who is evaluating the windows. They are very aware of the trains. Dan Matthews, of 31 Rosemary Street, noted he is not representing the Select Board. He noted the Select Board did support the underlying zoning. He lives and has worked in the neighborhood. This is what was presented to the Select Board and Town Meeting and he overwhelmingly approves. He feels it is a good fit for the area and a benefit to the people. It is a good use for this site. As a resident and participant, the project is what the proponents have asked Town Meeting to do and he asks the Planning Board to allow them to go forward as presented with conditions and requirements that are appropriate.

Mr. Alpert asked if there is any reason to hold the meeting open. He would prefer to defer the discussion to the next meeting. Ms. Newman noted there is no additional information wanted so there is no reason to hold it open. She noted Natasha Espada can listen to the tape and vote on the matter. Discussion will be taken up at the 5/18/21 meeting.

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 close the hearing.

7:50 p.m. – 390 Grove Street Definitive Subdivision: Elisabeth Schmidt-Scheuber, 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 and is continued from the July 21, 2020, August 11, 2020, September 8, 2020, November 4, 2020, December 15, 2020, January 19, 2021, February 2, 2021 and March 2, 2021 Planning Board meetings. Please note: The Petitioner has requested that this application be withdrawn.

Ms. McKnight noted correspondence from Attorney George Giunta Jr. to Planning Director Lee Newman. As of last night the owner and abutter have come to agreement to temporarily suspend the subdivision hearing and continue it to the April 21, 2021 meeting of the Planning Board and extend the action deadline. Due to the recent agreement the request is to withdraw the subdivision application without prejudice.

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 allow the withdrawal of the subdivision application without prejudice.

Vote on determination of which voting threshold (majority or two-thirds) applies to the zoning articles on the Annual Town Meeting Warrant under the Housing Choice Legislation.

Ms. McKnight noted the recommendation of adoption was sent and the Board received further guidance from the Executive Office of Housing and Community Development on 4/9/21. She thought the Board should follow their guidance, which recommends the Planning Board, in its report, makes a determination of which voting threshold applies to this district. This should be added to the recommendation for both Articles 5 and 6 and especially Article 7. The Highway Commercial 1 rezoning requires a 2/3 vote. A motion was made to add the wording “after consultation with Town Counsel the Planning Board has determined Articles 5 and 6 require a 2/3 vote at Town Meeting for adoption.” Mr. Jacobs asked if the Planning Board has made a determination whether the site is an eligible location under that statute. Ms. McKnight stated no. The interpretation of the statute keeps changing.

Mr. Jacobs asked why the Board does not make a determination it is an eligible location. He sees no harm and if they do that, and put it in the report, then at Town Meeting, for example, if a group that advocates for housing changes then the motion to amend to add a requirement for some level of housing would prevail. Then a determination at that time would be a majority vote is appropriate. Town Counsel could be spoken with ahead of time and if he agrees it could be added that they find it an eligible location but absent any request housing be required then a 2/3 majority vote is appropriate. Mr. Block asked the significance of the determination. Mr. Jacobs believes it would be a prerequisite for the Planning Board to make a determination of an eligible location. Ms. McKnight commented that is not a recommendation and she sees no need for it.

Mr. Jacobs believes the housing advocates might change their proposal to request some level of housing and that would change the voting requirement. He suggested Town Counsel Chris Heep be asked his opinion. Mr. Alpert suggested the Board go beyond Town Counsel to the Town Moderator. ~~Such a motion~~ might be out of order. There are uses by right and uses by special permit. There is no category for required uses. It seems they would need to come up with a whole new zone or rezone to Apartment 1 or Apartment 2. Highland Commercial 1 has no required use. He noted the zoning Warrant Article in front of Town Meeting requires a 2/3 vote. He feels this would be inviting the amendment and amendments should be vetted in open meetings. Ms. McKnight agreed. This change is beyond the scope. They need to be fair to the property owner. The Board cannot make it worse for the current owner. Going along with the recommendation is all they can do.

A discussion ensued. Ms. McKnight stated a majority vote was implied. Mr. Jacobs asked what the harm was of putting in the statute it is an eligible location. Mr. Block stated public policy is up to the Board for what is best for the site. On that basis he would not amend and would proceed with the 2/3 vote. He feels the Board should explain their reasoning.

Upon a motion made by Mr. Alpert, and seconded by Mr. Block, it was by a roll call vote of three of the four members present (Mr. Jacobs voted in the negative):

VOTED: to add the wording “after consultation with Town Counsel the Planning Board has determined Articles 5 and 6 require a 2/3 vote at Town Meeting for adoption.”

Ms. McKnight stated Article 7 requires a simple majority vote.

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 add “after consultation with Municipal Counsel the Planning Board has determine Article 7 needs only a majority vote for adoption because the Article, if adopted, with modified regulations concerning bulk, height of structures, yard sizes, lot area, setback, open space, parking and building coverage requirements to allow for additional housing units beyond what would otherwise be permitted under the current By-Laws.”

Minutes

Ms. McKnight noted changes she would like to the minutes.

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

VOTED: to accept the redlined version of the minutes of 1/19/21 with the changes discussed tonight.

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 adjourn the meeting at 11:00 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Paul Alpert, Vice Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

October 5, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, October 5, 2021, at 7:15 p.m. with Messrs. Jacobs and Block and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of the Board members and staff. 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. He noted this meeting does include 2 public hearings and there will be public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials are posted on the town's website.

Public Hearing:

Decision: Major Project Site Plan Special Permit: 2021-03: Needham Nutrition LLC, 915 Great Plain Avenue, Needham, MA, Petitioner (Property located at 915 Great Plain Avenue, Needham, MA). Regarding proposal to occupy approximately 864 square feet of existing first floor commercial space to operate a business selling Smoothies, Protein Shakes, Energy Drinks, Immune Booster Drinks, Collagen Drinks, Fitness Drinks, and similar items for consumption on and off the premises.

Mr. Alpert noted he was not present at the last meeting and turned the meeting over to Vice-Chairman Block for this hearing. Mr. Block noted the hearing was closed at the last meeting and it was requested the Planning Director prepare an affirmative decision. Ms. Newman stated she had been hopeful to implement screening behind the dumpsters. She sent some photos of the site and asked Engineering to verify if there was space to screen. Engineering reported it was too tight and there was not sufficient space. They do not recommend a permanent fixture be installed. Sections 1.7, 1.4, 2.1 and 3.14 would need to be revised to reflect the engineering comments. Mr. Block went to the site and agrees with Engineering. Those references should be struck from the decision. Ms. Newman stated there was a request to have parking stickers for all employees.

Ms. McKnight agrees a wooden enclosure would not work. She wonders whether along the boundary of the property a fence could be erected along that side that would screen the area. Has any consideration been given to that? Ms. Newman stated she did not speak with the DPW about that option. Evans Huber, representative for the applicant, stated there is a very narrow strip of paved land behind the building where the 2 rear exits are. That would make it difficult to access the dumpster from the rear of the building. The space between the bulkhead and the rear of the property is slightly more than the width of the dumpster. A truck would not be able to maneuver into the space to empty the dumpster. Ms. McKnight is proposing a fence along the property line where the granite curb is. Mr. Huber noted that is the location he is describing. With the bulkhead on one side and a fence on the other side it is unlikely a fence would not be damaged. Ms. McKnight retracted her comment.

Mr. Jacobs asked if Mr. Huber had a chance to review the decision. Mr. Huber stated he had a couple of concerns and reviewed it with his client. His client wants to be a good corporate citizen and will go along so they have no issue with the decision as written.

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

VOTED: with the changes made, approve the relief requested for (1) the requested Major Project Site Plan Review Special Permit under Section 7.4 of the By-Law; (2) the requested Special Permit under Section 3.2.2 of the By-Law for retail sales of ice cream, frozen yogurt and similar products for consumption on or off the premises in the Center Business District; (3) the requested Special Permit under Section 3.2.2 of the By-Law for more than one non-residential use on a lot; and (4) the requested Special Permit under section 5.1.1.6 of the By-Law to waive strict adherence with the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Off-Street Parking Requirements), subject to the following plan modifications,

conditions and limitations with regard to the application of Needham Nutrition LLC for the property at 915 Great Plain Avenue.

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. Alpert abstained):

VOTED: to adopt the decision dated 10/5/21 with the changes to the various sections having to do with fencing and enclosure of the dumpster that were discussed at this meeting and with the paragraph 3.20 reference revised.

Mr. Alpert returned as Chair of the meeting.

Public Hearing:

7:20 pm. – Article 2: Amend Zoning By-Law – Chestnut Street Business District Front Setback.

Mr. Alpert noted this [Special Town Meeting Article](#) was sent to the Select Board for review. The Select Board sent it back and this is the public hearing.

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 waive the reading of the public hearing notice.

Mr. Alpert noted the Article was in the packet. It makes 2 changes – one to Section 4.4.4 of the By-Law to make clear the intention of the phrase “Business District” and [to make](#) a change to the front setback in the Chestnut Street Business District. Currently it is 20 feet along Chestnut Street and 0 along the rest of the district, which includes some small side streets. He described the district. Mr. Jacobs noted this is an attempt by written proposal to create a 10-foot setback where there is a 0 setback now. He understands the intent but his concern is going to a 10 foot setback. Without further study a 0-foot setback is not justified. One owner recently built to 8 feet and 5 feet. He is open to suggestions. He does not want a 0 setback but would not require a 10-foot setback at this point.

Ms. McKnight stated in downtown ([Needham Center zoning district](#)) there is a 0 setback. Chestnut Street is different and the side street abutting. She gave it thought and felt 10 feet was appropriate. The Board has interpreted the By-Law in the past for a 10-foot setback. Mr. Jacobs stated he would leave the Oak Street property as a lesser setback. Ms. McKnight noted it would be prior non-conforming. Ms. Newman stated a 10-foot setback has been in place at least 60 years. When Chestnut Street was created in 1989 the setback was increased. The historical practice has been to apply a 10-foot setback across the entire district. Mr. Jacobs is concerned the window is opened for a short period of time and will close in October.

Mr. Block asked if Mr. Jacobs was thinking 5- feet in paragraphs 1 and 2. Mr. Jacobs stated that is one possibility. He feels a study can be done after the vote and changes can be made after that. Ms. Espada agreed with Ms. McKnight and understands Mr. Jacobs’ thoughts. This creates a chance to revisit for better setbacks. Ms. McKnight commented they have been talking about restructuring Chestnut Street and downtown [zoning](#), and the setback would be part of that. Mr. Alpert stated the Board could vote to amend the proposed By-Law; vote to withdraw and leave it as status quo; vote to leave as drafted with a 10-foot setback; vote to remove paragraph 2 and leave paragraph 1 to fix the Business District issue or vote to change 10 feet to 5 feet. He stated all property owners would be equal to this building that is set back 5 feet. He does not feel a study is necessary. He suggested Town Meeting could be told the Planning Board intends to study this and will bring it back. He is ambivalent. He would be ok with any decision for 10 feet, 5 feet or 0 feet. He feels the Board could justify any of those setbacks.

Ms. Espada feels it should not be withdrawn and it should not be 0 setback. She is ok with 10 feet but would also support 5 feet. Mr. Alpert stated he has a problem with the 7-11 building parcel. He would not like to see a 0-foot setback at the corner of Chestnut and Oak. Mr. Block asked who received notice of this hearing. Ms. Newman noted it was in the paper and went to surrounding towns and property owners in this district. Mr. Block stated he is inclined to proceed with 10 feet but would go with 5 feet if the Board wants that. Ms. McKnight stated the streets are relatively narrow. She feels 10 feet is better for these streets.

David Levy, of 20 Freeman Place, is inclined to say there should be a study. He feels it should be left as is. It is not affecting anyone. He would not have a problem with 0 feet and would agree with 10 feet but he would not change to 5 feet without a study.

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

VOTED: to close the hearing.

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

VOTED: to recommend to Town Meeting approval to amend the Zoning By-Law for the Chestnut Street Business District front setback as presented.

7:45 p.m. – Major Project Site Plan: Needham Enterprises, LLC, 105 Chestnut Street, Suite 28 Needham, MA, Petitioner (Property located at 1688 Central Avenue, Needham, MA). Regarding proposal to construct a new child care facility of 9,966 square feet and 30 parking spaces, that would house an existing Needham child-care business, Needham Children’s Center (NCC). Please note: this hearing was continued from the June 14, 2021, July 20 2021, August 17, 2021, September 8, 2021 meetings of the Planning Board.

Ms. Espada recused herself from this hearing.

Evans Huber, representative for the applicant, stated there has been a lot of discussion regarding allegations of ethical violations. He wrote the Board regarding his position. This Board is not an appropriate venue to be discussing those allegations while those allegations are addressed in another forum. He does not feel they should be discussing this. They **proponent** started having some substantive discussions. The Town Peer Reviewer John Glossa, of Glossa Engineering, had a discussion with John Diaz, of GPI. The only open issue regards the drainage at the entrance to the site. Mr. Glossa has redesigned the drainage there. This may not be resolved tonight. He suggests for things like that to be resolved through conditions, understanding that was an open item not fully addressed. He stated they have not talked about traffic yet.

Mr. Huber noted there was a lot of discussion regarding the barn. He feels, as long as the barn is used solely for the purpose of the NCC, it is protected under 40A, Section 3. He stated there **haves** been a lot of rumors and innuendo that he would like to address. It is true originally a portion of the barn was going to be used for storage and Mr. Borelli’s use. Two uses are not allowed so the plans had to be adjusted for the barn. The barn will be used solely for NCC because of the provision in the By-Law. The Board can place a condition that the barn cannot be used for anything other than NCC. That can be readily addressed with a condition. Mr. Jacobs stated he wants a date on record this is their final decision. Mr. Huber noted it was stated at the last hearing. He is not sure if it was mentioned earlier than that.

Mr. Huber stated the description of the use of the barn has changeds, which has caused suspicion. It has been suggested the barn should come down. He does not **agreeagree**, and the applicant is not willing to take it down. The Board will have to make a decision. Various modifications have been made to the plan and they would not be open to revising again. He wants the Board to be aware of the substantial number of emails and letters in support of the proposal received in the last 2 weeks. Some have said drop offs at the current location do not occur all at once like at schools. Some **commented** on how professional the staff is and the time the staff has put into responding to concerns regarding covid and being a respectful neighbor. A careful analysis has been done that shows queueing of cars will not spill onto Central Avenue. If there are any issues Ms. Day will adjust the pickup and drop off schedules. People will attest she is incredible and does what she says.

Mr. Alpert noted the Board needs to get the traffic issues in front of them. He brought everyone up to date. Town Counsel gave an opinion which was questioned by some people if he was able to do that. Town Counsel sent a letter to the State Ethics Commission and a response was received, which is on the Town website. His interpretation was they only discussed issues on 268A Laws. Nothing is in 268A that deals with the authority of the Planning Board. As far as 268A is concerned the Board should proceed. He spent time discussing that members of the Board are under 268A and should continue accordingly. He also asked the Town to hire an independent counsel to give an opinion. There has been no response yet. All communications received in the last few weeks were from members of the town who support this. He feels this is a

great opportunity for the towns-people to participate. They have done so admirably and civilly. The Board members intend to go through all the correspondence. He thanked all in the town for participating and giving feedback.

Mr. Huber asked John Gillon, of Gillon Associates, to summarize the queueing and backup traffic analysis. Mr. Gillon heard from Ms. Day and how she intends to run this facility. The analysis is based on random arrivals and used 60 second drop off intervals. A staff member takes the child out of the car and takes the child into the building for another staff member to take over. He used an 80-minute arrival period. There would not be a queue of more than 7 vehicles. The p.m. pick up was a 2½ hour window. Central Avenue has 16,000 cars per day, 1,360 during the a.m. peak. Traffic can be accommodated. He agreed with the peer reviewer it is a B Level southbound at capacity in the a.m. and better in the p.m. Central and Charles River is operating at a very poor level now. If splits and cycles were changed the intersection would get to a D Level in the p.m. There would be a 48 second delay southbound.

Mr. Huber clarified how they came up with the numbers, which was based on the way Ms. Day intends to operate with a maximum of 115 children and the total maximum staff. Tuesday through Thursday would be peak days with a maximum of 16 staff and 2 administrators, Monday there would be 15 staff and 2 administrators and Friday would have 13 staff and 2 administrators. The children do not arrive in a random fashion. Of the 115 children, 55 would arrive between 7:30 and 8:50 a.m. and another 30 would arrive around 9:00 a.m. There are 30 after school children who would arrive in buses. Mr. Alpert asked if it would be acceptable to condition no more than 85 students prior to the afterschool children. Mr. Huber stated yes, a component of the 115 is the afterschool children. He noted a significant number of children are siblings so there would only be one car per arrival. Ms. Day's data confirmed with 55 kids in the a.m., about 30 would be siblings so only 40 vehicles would be arriving. He noted the drop off lane and access lane and stated the staff would arrive before students and would not add to the length of the queue. The staff can go directly to the back through the access lane. He does not agree there would be random arrivals for all 85 students. They do know when the 55 children would arrive as that is when their program starts. He noted the issue of the traffic backing up on Central Avenue was contributed to by the timing of the lights at Central and Charles River and that contributes to delays as currently set. They have looked at if the timing could be better.

Mr. Jacobs asked who has the legal authority to change the timing and who has the skill set to do it properly. Mr. Huber stated Mr. Gillon used to have the authority and has the skill set but no longer has authority. Someone in the town has authority. He noted changing the timing is not an expensive cost. Mr. Diaz stated his only concern is the monitoring. Making the change to the control is simple but it needs to be monitored. Mr. Jacobs asked if the lights are optimized are other issues created. Mr. Diaz stated they are minor changes. There may have been issues if there were other intersections close by but there are none.

Mr. Diaz stated the 8/26/21 correspondence was the latest sent. He reviewed it, looked at everything and requested a new traffic study. Mr. Gillon prepared a report dated 8/11/21 and they hashed out a number of problems. He described the methods they used. They used the square footage of the building for expected traffic – 10,034 square feet with 30 parking spaces. The trip generation is 58 entering and 51 existing in the a.m. and 52 entering and 59 exiting in the p.m. based on square footage. Mr. Block stated, based on historical data, somewhere around 85 students would be arriving between 7:00 a.m. and 9:00 a.m. There is a significant concern with 60 vehicles coming southbound and taking a left into the driveway. That would have a substantial impact stopping northbound traffic. He asked what the longest delay would be. Mr. Diaz stated the signal to the south would deal with traffic coming north. Anything you put in that lot would have traffic backed up to the turn in with the service Level B.

Mr. Huber stated the applicant is prepared to agree to have a police detail during peak a.m. and p.m. hours for the first few weeks to alleviate issues and would continue it with input from the Police Chief. Mr. Block asked how many vehicles they expect to queue from the driveway to Great Plain Avenue to make a left into the driveway. Mr. Alpert stated traffic goes northbound on Central Avenue. There is very little gap from the northbound traffic from Dover and eastbound traffic on Charles River Street turning left onto Central Avenue. The red light does not really create a gap. Mr. Block asked if any kind of calculation was done. Mr. Gillon stated he did look at the volume going into the property and inflated the volume for the peak time factor. The software does all the calculations and estimates. There is not going to be a substantial queueing to get in the driveway. He noted p.m. works better than a.m.

Mr. Huber stated Mr. Block's question is based on hypothesis that 10 vehicles would arrive at the same time. There is an 80-minute window here children would arrive. Theoretically it is possible for 10 cars to arrive in one ~~minute~~minute, but the chances are exceedingly low. Cars will arrive in a random way. Mr. Block noted Ms. Day has a summary record of cars that arrived and what time for state requirements. Ms. Day clarified it was not ~~cars~~cars, but parents who are required to sign in and sign out at the end of the day and state the time. Mr. Block noted there were challenges with the data set. The circumstances at the church are different from the new site. He would like to see the break-down again of 15-minute intervals from 7:15 a.m. to 9:30 a.m. for the school year that began prior to Covid from September through December. Ms. Day stated it would be the same but with Covid the hours were shortened. Mr. Huber will work with Ms. Day to get the information.

Mr. Diaz stated the analysis was done using the standard traffic engineering analysis which showed a Level B. The software was done the way it was supposed to be. The offer of an officer at the driveway would alleviate any issues and he would suggest a monitoring study down the road. The numbers make sense. They are talking about 60 vehicles entering and existing this site. It is not going to back up to the dump because someone is turning into the school. Ms. McKnight noted Mr. Diaz is the peer reviewer hired by the town. There is a lot of talk about how Ms. Day runs the NCC. The level of service is based on the square footage of the building and ITE applies to that. This is a satisfactory level of service. She is in agreement with police at the beginning and monitoring after a while. She feels they are focusing too much on the operation. She has a concern with that many ~~siblings~~siblings, but it does not matter as they are using objective level-of-services data here.

Mr. Diaz noted traffic will not be spilling out onto Central Avenue and causing backups. He has not seen the information on the optimized terms for the traffic signal. He will look at that. For the site plan, Mr. Diaz wants to clarify the drainage discussed at the beginning. The outstanding comments are 1) sidewalks along frontage of property and if they should be reconstructed now and 2) the issue about delivery trucks accessing the space. Mr. Alpert stated Mr. Gillon mentioned new information Mr. Diaz has not seen yet. Mr. Huber noted #10 and #11 were not addressed yet. Mr. Diaz stated the situation regarding southbound traffic that was Level A needs to have the tables fixed. Also, the operations at Charles River Road are not based on actual timings. He asked if the signals could be optimized. Mr. Huber stated an analysis was done in early September. He dropped the ball and did not forward it to the town.

Mr. Alpert stated the question is, based on the building having a 64-foot setback, if the building was pushed back to 150 or 200 feet would that alleviate traffic concerns. Mr. Diaz stated the number of cars entering is not changing. Mr. Alpert asked about lengthening the driveway or pushing the spaces back farther. Mr. Diaz stated it would depend on what the site looks like with the addition of a storage lane that alleviates queueing in the a.m. They just spent the last half hour talking about traffic at the driveway. He would need 2 site plans to compare. Mr. Huber commented that no matter how many times they redesign, people will still say cars will spill out. The question is does the Board trust the professionals they have heard and what they have calculated. Mr. Block noted the 8/26/21 letter from Mr. Diaz regarding paragraphs 2, 3 and 4, that says 30 spaces is sufficient based on the town calculations. How did the town calculate that? Mr. Huber stated the ITE figures generate expected parking requirements. The town has used a different formula. Mr. Diaz clarified ITE is for trip generation and not parking.

Mr. Huber stated the formula the town has traditionally used is based on 8 spaces for more than 45 children, one space for every 40 children and one space for each staff, which would be 29 in this case.

Mr. Block noted the catch basin in the driveway apron. Has the applicant agreed to remove it? Mr. Glossa has revised and submitted the revised drawings. Ms. Newman stated they were not submitted to the town. She did not receive anything formal from the applicant. Mr. Huber stated Engineering has responded to Mr. Diaz's s comments. He feels it needs to be addressed to Mr. Diaz's satisfaction. Mr. Diaz stated originally it had a single catch basin. Then it was revised with 2 catch basins at the end of the drive but still had a single catch basin in the center. Then the last set had 2 gone and the single still there. Mr. Glossa stated 9/28/21 were the last plans. On sheet 4 the 2 basins are still on the plan. Mr. Diaz commented that issue is still outstanding. Mr. Block stated the level of service on Central Avenue goes from A to B at this site. Mr. Diaz noted it does on the southbound approach.

Holly Clarke, of 1562 Central Avenue, commented it is good that people are finally getting to speak and get heard. Mr. Huber said reports would just go to the experts and that's it. People who live in this area are concerned and it is good to

have this public discussion. It is important this be transparent and open. The neighbors have been very clear about the concerns with this project. Traffic is a huge concern. When they say Central Avenue is a Level Service A in the a.m. that is simply not true. This is a heavily traveled road. She called the Town Traffic Engineer and he did not have an explanation for her. The intersection at Charles River is an F. There is a 672-foot backup in the p.m. which is past the driveway. It is the same thing in the a.m. She can never just pull out of her driveway onto Central Avenue. She is not opposed to the day care center. She lives next to ~~oneone~~, but she wants a full understanding of this street and wants to see mitigations. It is just not a Level A. Mr. Jacobs asked if there is a misunderstanding of Level Service A. Can what Ms. Clarke says be true and this be a Level A. Mr. Diaz stated this calculates how the left turn enters the site, how the movement works and how the driveway works. This should be looked at as a corridor. They are just looking at individual movements. He can look at as a network, which is a different analysis to include under one. He can reanalyze and see what it shows. Mr. Jacobs stated that should be done.

Mr. Huber stated this is a 40A Section 3 project. Mr. Alpert stated this Board can make reasonable regulations. Cases give this Board the ability to put regulations. He requested Mr. Huber not speak after each witness testimony as it is delaying the process. Mr. Jacobs noted the wrong analysis was done on traffic. It should be treated as a corridor and another analysis done. Ms. Clarke stated a fuller analysis is really important. There is an impact on surrounding streets and neighborhoods. A 40A is not a get out of zoning jail. There is a real concern to putting a commercial use in residential. Central Avenue is a critical road and intended to get traffic through. There are no shoulders and no sidewalks on the easterly side. On the west side it is a trail and not a sidewalk. At the church, there is on-street parking and an ~~auxillary~~auxiliary parking lot. There are different ways to get to NCC at its current church site, such as pedestrian. None of that can happen here. It is important to consider that.

Ms. Clarke noted people will have to cross the heaviest lane of traffic in the morning and they will be backed up. This site is uniquely concerned with houses on the other side of the street. It has to be acknowledged this is a problem. 450 people signed letters of concern back in April. Central Avenue is a parking lot on some days. She is not opposed to change but this is reality. The town needs to plan for reality. This is what traffic is and it has increased over the years. That reality will impact those going to the day care center and that needs to be looked at. She stated she went to NCC to see what the times were. She went 2 days in ~~September~~September, and it was not one minute to drop kids off. She submitted a document that gives the Board the actual student capacity of this building. She respects Pat Day but in terms of planning, the changing sands in the plan has been difficult. The plan asked for 100 children and now it is 115. What is the actual capacity of the building and the plan for that? She submitted that analysis and questions that the Board can think about.

Mr. Diaz stated the base analysis or ITE Standards are based on day cares and the square footage of buildings based on a day care center. He wanted to make that point clear. He did not base it on Ms. Day's calculations. Mr. Jacobs commented his concern is he is hearing 2 totally different scenarios. He has heard it is a Level of Service A but Ms. Clarke says it is a parking lot. Mr. Diaz stated what is causing the backup is the timing of the signal. If there was no signal traffic would flow freely. The driveway falls in the queue from the signal. He will look at the area as a corridor. Mr. Alpert stated the Board has the ability to put in regulations that alleviate concerns. Conditions could be put in that there be better timing at the lights and a police officer at the site directing traffic for a few weeks or even permanently. He stated this would not alleviate congestion on Central Avenue. The police can control the impacts of the driveway and mitigate the driveway. Ms. McKnight noted they can require better timing of the traffic light and a police officer will be done. The third thing is monitoring over time to make sure things do not get worse over a year. If monitoring shows there needs to be a change, there would need to be a change.

Ms. Clarke wants the Board to consider Country Way, the Central Avenue intersection and other driveways. Mr. Diaz noted the left turn timing out of Country Way and Central Avenue is an F. In terms of ~~mitigation~~mitigation, he is not sure what could be on the table for that. The police can see if there is a negative ~~effect~~effect, and a signal can assist. He appreciates what is being said but does not want to do an analysis just for the sake of an analysis. Ms. Clarke noted he is saying there is terrible traffic and this is adding fuel to the fire. Mr. Diaz is saying there is immeasurable impact. The counts will be done but there is an 80 second delay now with a Level F and if the project goes in and it is an 85 second delay it is still a Level F.

Mr. Block noted Ms. Clarke is saying Central Avenue is already a fire storm of traffic and this is adding gasoline to that fire. The Town has the authority to say this project does not fit if it causes that much problem and becomes an impossibility

to cure. The best option is an ongoing police and traffic signal. He asked Ms. Clarke if she is saying this should not be built. Ms. Clarke believes, legally, if there is a problem that cannot be mitigated the Board can say no. Or part of the mitigation could be that it needs to be smaller. It was suggested everyone else be put off to the next meeting. This takes a lot of time and the Board is trying to give it the time it needs. Ms. McKnight noted the lighting on page 2 of Mr. Ryder's memo has not been addressed. He wanted updated plans with the lighting shown. Mr. Huber stated he is sure they can provide updated plans with the lighting shown.

Ms. Clarke stated she has more ~~comments~~comments, but this is a logical stopping place. She will write down her comments and send them to the Board. Mr. Diaz would like further analysis prior to the next meeting and would like a complete set of plans with all changes. The meeting will be continued to the 10/19 meeting and the Board will discuss other issues if the information is not received in time.

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 10/19/21 at 7:45 p.m.

Mr. Alpert commented the Board members are reading all emails. People should feel free to send emails with comments.

Request to Extend Temporary occupancy permit: Amendment to Major Project Site Plan Review No. 2013-02: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1407 Central Avenue, Needham, MA).

Ms. Espada rejoined the meeting.

Ms. Newman stated there is a problem with the ~~H~~and eCourt and the inability to get a consolidation plan approved by the ~~e~~Courts. The Planning Board may need to reconsider this requirement under their decision as it is delaying the whole process. She will speak with Town ~~Counsel~~Counsel, but the Board should extend the temporary Occupancy Permit through 10/28/21.

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 extend the temporary Occupancy Permit through 10/28/21.

At-large appointments to the housing plan working group 2021.

Ms. McKnight and Ms. Espada were ~~present~~present, and Mr. Jacobs was also involved in recent interviews of candidates for appointment to the Housing Plan Working Group. Ms. McKnight noted there were 4 candidates interviewed. Ms. Espada participated by~~watched on~~ video. They interviewed Amanda Berman, Rhonda Spector, Oscar Mertz and Emily Cooper. Rhonda and Oscar were the best candidates. She reviewed their qualifications. Emily Cooper had good experience with homelessness and disabled housing~~housing~~, but her study is broader. She would be glad to participate and assist with input. Amanda Berman has the same skills as Karen ~~Sunnarborg~~Sunnarborg, and she felt that was duplicative. She looks forward to working with Rhonda and Oscar. Ms. Espada agreed. She noted there were a lot of great candidates and she hopes other ~~s~~run for other positions. Mr. Block asked for Mr. Jacobs' thoughts. Mr. Jacobs stated he had the same thoughts. All four would be great. He felt Rhonda was a good fit but questioned if Oscar duplicated the skills Ms. Espada has. He would have taken Amanda in a ~~heartbeat~~heartbeat, but he is fine with the 2 that were picked. Ms. McKnight stated she appreciated Mr. Jacobs' participation.

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

VOTED: to appoint Rhonda Spector and Oscar Mertz to be community members of the Housing Plan Working Group.

Ms. McKnight stated there should be someone from the Zoning Board of Appeals (ZBA) on the committee. It is particularly important because of the role the ZBA plays in the 40B process and the Accessory Dwelling Unit (ADUs) history. Ms.

Newman noted no one from Park and Recreation has come forward. Ms. McKnight noted they do not need someone from Park and Recreation but do need someone from the ZBA. Mr. Alpert said he is concerned about Oscar's appointment. He seems to be a one issue candidate. He hopes he broadens his perspective when on this Committee. It is more than just ADUs and affordable housing. Mr. Jacobs suggested Mr. Alpert watch the interview. He feels it would change his mind.

Mr. Alpert stated there will be a meeting with the Select Board next Tuesday night to discuss zoning articles.

Ms. Newman noted there is a Citizen's Petition on ADUs. Mr. Jacobs stated it seems strangely vague as written. Mr. Alpert noted the Select Board will look for a formal opinion next week.

~~He is concerned about Oscar's appointment. He seems to be a one issue candidate. He hopes he broadens his perspective when on this Committee. It is more than just ADUs and affordable housing. Mr. Jacobs suggested Mr. Alpert watch the interview. He feels it would change his mind.~~ Mr. Alpert has arguments against the petition. He feels it is too soon to revisit ADUs. They should wait 4 or 5 years and then revisit. There was discussion and debate about allowing people to rent. It has only been 2 years and it should be given a chance. He noted this only adds 3 units. He does not want to go through the whole process with Town Meeting for only 3 units. The Planning Board is going forward with looking at these issues and they should let the process work. Ms. Newman suggested they could recommend the Article be referred back. Mr. Alpert would like to reject it and tell Town Meeting to vote no.

Ms. McKnight stated there is a movement going on. Oscar is a leader and he responded when people said ADUs needed to be revisited. There is a lot of energy in the town right now and the ADU issue needs to be studied. Mr. Block feels it is very vague and will have a minor outcome. He would support a proposal to reject and would speak to it at Town Meeting that concept should be part of a broader proposal. Ms. McKnight suggested it should be referred to the Select Board for further study. Mr. Alpert stated it would have to go back to Town Meeting and let them know what has been done. The Housing Plan Working Group will not have anything by then. Ms. Newman stated there would not be a draft article by then. They need to get through the needs analysis and articulate strategies, goals and policies. It is more realistic for the Fall Town Meeting. Ms. McKnight thought the study would be far enough along to at least give a report to Town Meeting. Mr. Alpert noted if the Committee is ready for May Town meeting that is great. It would be discussed and go forward. He wants it to be part of Ms. McKnight's committee and not a standalone.

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

VOTED: to vote against the Citizen's Petition.

Ms. Newman stated they need to agree on 2 Planning Board members to present at Town Meeting. It will be a video presentation. Mr. Block will present the Outdoor Dining and Mr. Alpert will present the Chestnut Street Business District. Mr. Jacobs and Ms. Newman will not be going to Town Meeting but will participate via zoom.

Ms. Newman stated she needs some direction for the shuttle service. She had some correspondence since the last meeting about the need to participate. She spoke with Mr. Schlager of Bull-Finch. He does not want to participate but would provide Uber services. She spoke with the 128 Business Council Shuttle Director and found all members required to participate are participating per the permits. Mr. Block stated the landlord at Bull-Finch Group should be directed to continue compliance with the Special Permit and provide shuttle service required therein effective immediately. Mr. Jacobs asked why immediately. Mr. Block stated if Bull-Finch continues not to participate the shuttle service is in jeopardy. All need to be in compliance with the requirements in the Special Permits. Mr. Alpert does not like the idea Mr. Schlager is trying to get around it with one car Uber or Lyft, which is what they are trying to prevent. He has a requirement he has to have a shuttle service. All others are doing that. Mr. Jacobs understands and feels the same way but why is Monica saying the service is in jeopardy but can start 1/1/22. A motion was made to direct the Bull-Finch Group to return to compliance no later than 1/1/22. Mr. Alpert stated the Board is giving him a break no one else has asked for. He does not deserve the break. They can afford this service. He has no sympathy for the 128 Business Council. They are a large group and have plenty of money. This Board should not allow him to not comply with this requirement. Mr. Jacobs and Ms. Espada have no objections. An amendment was made to the motion to require return to compliance effective 11/1/21.

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 direct Bull-Finch Group to return to compliance no later than 11/1/21.

Board of Appeals – October 21, 2021

Scott Lubker -- 25 Fenton Road

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

VOTED: “No comment.”

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 adjourn the meeting at 11:40 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block, Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

October 19, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, October 19, 2021, at 7:15 p.m. with Messrs. Jacobs and Block and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of the Board members and staff. 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. He noted this meeting does include one public hearing. A matter has arisen that will be discussed at 7:45 p.m. which will necessitate opening and postponing the hearing to 11/2/21. There will be no public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Appointment:

7:15 p.m. – Discussion of Needham Housing Authority Modernization and Redevelopment Initiative.

Mr. Alpert introduced Reg Foster, Chair of the Needham Housing Authority, and Margaret Moran and Nathalie Janson both of the Cambridge Housing Authority, which is the NHA's consultant. Mr. Foster stated he has been on the NHA Board of Housing Commissioners since 2010. He wanted to introduce Ms. Moran and Ms. Janson and give the Planning Board a heads up. In mid-summer this year they launched the Modernization and Redevelopment Initiative (MRI). He wanted to give a brief opportunity for comments. The Housing Authority is starting a 5-to-10-year initiative. They were before the Planning Board 12/4/18 and presented a draft Facilities Master Plan. It was circulated to other parties and the final plan was published in 2019. He prepared a briefing document and reviewed it for the Board members. The first page is an excerpt from the Management Summary. There is a description of the 5 projects under consideration; modernize and preserve the Cook's Bridge property; redevelop the High Rock property; redevelop the Linden-Chambers property as it is not economical to do anything else, and add a new 61 unit senior/low income housing development to Seabeds/Cook. This is being done with non-taxpayer money. There is \$5 million in CPA money then private, state, and other sources for the rest.

Mr. Foster stated the Request For Proposals went out in April 2021 and they selected Cambridge Housing Authority as the consultant. He laid out the work plan for Phase 1 which will be 7/2021 through 3/2022. That will include the Cambridge Housing Authority presentation and their skills and abilities. Cambridge was chosen as they offered key advantages. He received 2 proposals from the private sector, but the most cost effective was the Cambridge Housing Authority who spent the last 10 years redoing all its public housing units. They have tremendous experience and have assisted other towns. He noted Ms. Moran played a key role in the High Rock redevelopment in 2005-2008 so she knows Needham. They are here to answer any questions and receive input from the Board members.

Ms. McKnight stated the Housing Plan ~~Working~~ Group will be studying their proposal. She stated she read the report a couple of years ago and does not understand what zoning is applicable to these projects. Cooks Bridge is in the Single Residence B District (SRB) and Linden-Chambers ~~are~~ is in the Single Residence A (SRA) and General Residence Districts. What legal authority were those developments originally built under? Was it state and federal funding so they were exempt from local zoning? Were any units built under a 40B? She wants to understand any barriers our current zoning may present. Mr. Foster stated one task is to look into any zoning implications. Ms. Moran noted in 2005 the zoning was changed to create the duplex homes. Some may have been built under the zoning in place at the time and would be grandfathered in. They will be looking at the zoning implications to make sure all are compliant. Mr. Foster stated they will be working with the Planning Department moving forward and have a transparent process.

Mr. Jacobs noted they are trying to anticipate any zoning change that may be needed to try to begin working on it as soon as possible. Mr. Foster stated they did a conceptual plan in 2019 and are trying to make it an actionable plan. Ms. Espada stated she is working with Ms. McKnight on the affordable Housing Plan Working Group, and the next couple

of months will be exploratory. It would be helpful if someone from his group could attend and help gather information. Mr. Foster stated the Housing Authority started working on this 10 years ago and has ~~sy~~^{ve} a large repository of information. The Planning Board can have access to all of that. Mr. Alpert thanked ~~ed~~ them all for coming.

Public Hearing:

7:45 p.m. – Major Project Site Plan: Needham Enterprises, LLC, 105 Chestnut Street, Suite 28 Needham, MA, Petitioner (Property located at 1688 Central Avenue, Needham, MA). Regarding proposal to construct a new child care facility of 9,966 square feet and 30 parking spaces, that would house an existing Needham child-care business, Needham Children’s Center (NCC). Please note: this hearing was continued from the June 14, 2021, July 20 2021, August 17, 2021, September 8, 2021 and October 5, 2021 meetings of the Planning Board.

Mr. Alpert explained the hearing will be continued to the next meeting on 11/2/21 due to some communication that came in today forcing them to postpone. They received an email from David Lazarus, a neighbor, saying the hearing should be postponed to get the traffic study. They want the corridor analysis of that area of Central Avenue, specifically the intersections at Central and Charles River and Central and Country Way. That was not able to be done for this meeting. There was also an email from Mike Connolly who does not live in Needham. He stated his children went to Needham Children’s Center and he is speaking in favor of the proponents. The email says there is a “conflict of interest with the Chair,” and it has been reported to the Ethics Board, in that Mr. Alpert was a trustee of another child care center in Needham. Mr. Connolly ~~He~~ wants to file a formal complaint as it was not disclosed. ~~His e-mail~~ stated the Chair has a conflict and should not be participating. Mr. Alpert stated he spoke with Town Counsel Christopher Heep today. They both feel Mr. Alpert should consult with the State Ethics Commission as to whether ~~if~~ he should recuse himself. He will not participate tonight. If there were a hearing it would need 4 votes and there would not be a quorum to proceed tonight. Ms. Espada has recused herself from this at the beginning. Mr. Alpert hopes it will be resolved for the 11/2/21 meeting.

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 11/2/21 at 7:45 p.m.

De Minimus Change: Amendment to Major Project Site Plan Review No. 2013-02: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1407 Central Avenue, Needham, MA). Regarding staffing at the Jack Cogswell Building.

Town Counsel Christopher Heep noted this is a request for a deminimus change. This is the DPW equipment storage building that was permitted in 2018. The intent was for it to be unstaffed and just for storage for equipment and that was captured in the Special Permit. At the onset of Covid 19 the DPW found the need to identify additional spaces to space people out. In January 2021 the applicant asked for up to 16 employees to report to the building in the a.m. and occasionally work there on a temporary basis. The Planning Board approved this request and incorporated it into the decision in January. The temporary application was for 45 days beyond the lifting of the state of emergency. The need to use the building is continuous. They are asking that the temporary occupancy permit be allowed to continue up to and including the end of April 2022 with all the same conditions.

Carys Lustig, of the DPW, has concerns with the operations if this is not allowed. They still need to keep the staff spread out due to Covid and quarantines if someone gets sick. They will vacate the Cogswell Building if all is better. Mr. Alpert commented he hopes they are not back here in April. Mr. Block asked whether, if there are 16 employees, are 16 parking spaces enough for the additional equipment and trucks. Ms. Lustig stated there have not been any issues or complaints. Mr. Block stated the request is for a particular period of time. He asked if there is a reason it should not say 8/31/22. Mr. Heep stated that would be beneficial. Coming to the Board he wanted to keep it a reasonably short timeline. Ms. McKnight asked if all DPW employees are under the federal vaccination guidelines. Ms. Lustig stated there is no order for the employees but about 95% are compliant. There are small clusters of breakthrough cases.

Mr. Alpert noted a letter from the DPW with no comment. There is a draft decision that will need the date changed in 2 places to 8/31/22.

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 accept as a minor modification.

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 grant the minor modification amendment to the decision in respect of application 2013-02 with the original decision dated April 2, 2013, Amended June 10, 2014, July 8, 2014, January 20, 2015, May 6, 2015, January 26, 2016, July 19, 2016, November 20, 2018, August 6, 2019, September 3, 2019, October 19, 2019, January 4, 2021 and June 1, 2021 and Insignificant Change on September 15, 2020 to effectively enable DPW staff totaling no more than 16 to be able to work in the premises currently in through August 31, 2022.

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

VOTED: with a change to the date, adopt the decision as drafted.

De Minimus Change: 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, MA). Regarding proposed changes to the approved plan.

George Giunta Jr., representative for the applicant, stated this is a request for a de minimus change to the Special Permit. The issue with the survey resulted in an incorrect property line and an improper setback distance was used. It measured from the building's wall rather than the overhang. Neither is significant but this will bring the plans into conformity. They are also requesting a minor change to the front landing and steps that are a bit different. The original plan showed a handicap ramp in front. This has been removed and has been moved to the back. Several minor changes were voted by the Board such as approving a transformer location change, installation of a pole and changes to the parking and handicap ramp. This was all approved by vote but there is not a revised decision. This will clean up all the issues, the applicant can finish the project and close it out.

Mr. Block asked what the intention was of having the handicap ramp in front. Mr. Giunta Jr. stated there was going to be commercial space in ~~front~~front, but it did not work out well. People will be pulling into the parking lot around the back of the building. It is a more logical location for the ramp in the back. The interior of the building changed a ~~bit~~bit, and the front door does not access the spaces. The front door is more of an emergency egress. Ms. Espada asked where the public would come into the building. Mr. Giunta Jr. noted, with the redesign, people will come in the back of the building where the parking is. The back is the main entrance and accesses the elevator.

Ms. McKnight noted someone not familiar with the building, arriving by vehicle, ~~who~~and uses a wheelchair or walker, how would they know where to go. Mr. Giunta Jr. stated there is no immediate parking in the front of the building or on Oak Street. They would turn into the drive and there is signage that the handicap ramp is around back. Ms. McKnight asked where the handicap parking is located. Mr. Giunta Jr. stated there are 2 spaces next to the ramp and he showed her the location on the plan.

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

VOTED: that the requested changes to the Special Permit for 15 & 17 Oak Street be considered a de minimus change not requiring notice or a hearing.

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

VOTED: to approve the amendment to a Major Project Site Plan Special Permit dated October 19, 2021 pursuant to Application No. 2016-01, originally dated March 29, 2016, amended by First Amendment and Restated Major Site Plan Special Permit dated November 1, 2016.

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

VOTED: to accept the decision as drafted.

Ms. Newman will modify the vote.

Request to Authorize Director to Authorize Occupancy Permit or Temporary Occupancy Permit: Major Project Site Plan Special Permit No. 2018-04: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 707 Highland Avenue and 257 Webster Street, Needham, MA). regarding replacement of Fire Station 2, Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1407 Central Avenue, Needham, MA).

Ms. Newman stated she was approached by Steven Popper regarding getting an occupancy permit over the next 3 weeks. She wants to make sure she has the authority to issue a temporary Certificate of Occupancy provided there is adequate money held back under the contract to cover work on the exterior of the building that is not completed at the time of occupancy. Mr. Alpert asked how the holdback amount is determined. Ms. Newman noted there will be an estimate for unfinished work done by an engineer, then certification from the project manager and the town will hold back that amount of funds at 135%.

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

VOTED: to grant permission to the Planning Director to issue the necessary instruction to the Building Department for a temporary Certificate of Occupancy upon receipt of required documentation and sufficient holdback to complete any unfinished work.

Discussion of Warrant Articles for October 2021 Special Town Meeting.

Ms. Newman stated she wanted to talk about protocol and how the meeting will be run. It will be at Powers Hall. There will be 2 tables at the front of the hall and the Planning Board will be seated in the front row as a group. Presentations have been recorded but the Moderator wants people to make very short ~~2-to-3-minute~~2-to-3-minute presentations. Mr. Jacobs and Ms. Newman will not be at the meeting. Ms. Newman will watch on cable and will be available by phone. Mr. Jacobs will also be available by phone. Ms. McKnight noted their position on Article 12 Accessory Dwelling Units. The proponents are seeking ~~notice~~ to refer to the Planning Board for further study. She anticipated the Board would recommend a positive vote to refer. Mr. Alpert assumed it would be a report back to a future Town Meeting without a future date attached. He would like to keep it open ended as the committee will be discussing it.

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

VOTED: to recommend to Town Meeting Article 12 be referred to the Planning Board for a report back to Town Meeting at a later date.

Ms. Newman stated the Board voted the recommendations on the Planning Board Article. The members need to sign so ~~shethey~~ can get them to the Town Clerk before Town Meeting. ~~Usually~~Usually, the Board schedules a meeting ahead of Town Meeting and holds it open through Town Meeting. She is looking for a time for a zoom pre-meeting. She was thinking maybe 15 minutes on Monday the 25th. After discussion, it was decided there would be a meeting on the 25th at noon with a vote to continue that Board meeting through Town Meeting.

Minutes

Ms. McKnight noted the vote on the 6/29/21 minutes is different than in the decision on allowing convenience stores. Mr. Alpert agreed it should not include convenience stores. Ms. Clee stated the Board could verify with verification to be done.

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

VOTED: to give approval to the minutes of 6/29/21 and 7/20/21 pending final verification by Planning Board Staff.

Report from Planning Director and Board members.

Ms. Newman stated she was approached by the Town Manager's office regarding the policy on outdoor dining. The Board had relaxed the rules through 10/31/21. The Town Manager's office has received some requests to extend that to the end of November.

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

VOTED: to continue the relaxation of the outdoor seating policy rules from 10/31/21 through 11/30/21.

Ms. Newman noted the first meeting of the ~~h~~Housing ~~Plan~~ ~~w~~Working ~~g~~Group is this Friday. She is working on an agenda. Ms. McKnight stated Karen Sunnarborg put together an agenda, and they put together a timeline for tasks to be completed through the Fall of 2022. The collection of data and housing needs were put together. There will be monthly meetings then a community input meeting to hear needs and ideas for housing strategy. Then they will prepare the housing plan with goals and strategies. Then there will be community meeting to present the plan. They are likely looking at not the 2022 Fall Town Meeting but the 2023 Annual Town Meeting~~next one~~ for action on any recommended zoning amendment. Ms. Newman noted Marcus has a conflicting meeting and cannot attend this first meeting.

Mr. Block stated he has reconstituted the Council of Economic Advisors (CEA) and created 3 subdivisions – 1) small business conditions in town; 2) cluster-based economic strategy and 3) other commercial districts that could be improved. They took a walk around downtown Chapel Street, upper Chestnut Street and Great Plain Avenue. Next, they will go down lower Chestnut Street. They will make recommendation to the Board of Selectmen. He will keep the Planning Board posted. He noted there may be the consideration of a brewery in town. He wanted to keep the Board posted. Mr. Jacobs stated all members of the CEA should have a copy of the Needham 2025 plan. Also, all Planning Board members should have a copy. Ms. McKnight stated his subgroup on small business should meet with the ~~h~~Housing ~~p~~Plan Working gGroup.

Ms. Newman stated electric cars needs clarification. The Board has approved installation of infrastructure of electric cars and had approved installations at the Public Service Administration Building at 500 Dedham Avenue. All was supposed to be underground except the mechanics in front of the cars. They needed additional electric lines with overhead wires. They got rid of that ~~option~~option, but it will require the installation of a new transformer and the continuation of the fencing. She wanted to get feedback and if the Board is comfortable with her approving this. Ms. Espada clarified this is the front of the building and was informed it was. She asked if it could be screened with landscaping as it is encroaching into the front yard. Ms. Newman would suggest a deminimus process so the Board could be involved. Ms. McKnight asked if it was necessary to fence it for safety and was informed no. Ms. Newman will talk with Henry Haff and tell him the Board wants to see the proposal.

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 adjourn the meeting at 9:17 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

DRAFT

NEEDHAM PLANNING BOARD MINUTES

October 25, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Monday, October 25, 2021, at 12:14 p.m. with Messrs. Jacobs and Block and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of the Board members and staff. He noted this is a special meeting to discuss the Town Meeting Warrant 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. He noted this meeting does not include any public hearings and there will be no public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Discussion of Warrant Articles for October 2021 Special Town Meeting.

Ms. Newman reviewed the protocol for the Special Town Meeting. There will be a short presentation from Mr. Alpert and Mr. Block. She sent Mr. Alpert a map of the Chestnut Street Business District. Mr. Block asked if anyone could think of any technical questions that may come up for the Outdoor Seating. Ms. McKnight stated she watched his presentation and he did not mention the Select Board's role in approving outdoor seating on public ways and in parking spaces. Mr. Block noted he commented the Planning Board has jurisdiction over private property and the Select Board has jurisdiction over public sidewalks. He may not have been clear enough. Mr. Alpert asked if it was anticipated the Select Board would continue to use parking spaces in the streets. Mr. Block will let the Select Board respond to that if it comes up. Ms. Newman noted the Select Board should respond as regards to public spaces. It was noted masks must be worn even when speaking.

Mr. Alpert suggested the Board talk about the Emery Grover Building. Ms. McKnight stated the Finance Committee opposes the motion for design funds for the renovation of the Emery Grover Building. They want the Facility Financing Plan in place. An amendment will be presented to reduce the amount of money from \$1.5 million to \$350,000; to "delete funding for design plans" and "delete creation of off-street parking at Stephen Palmer Center." Mr. Alpert stated the \$350,000 will be used for engineering and design for the renovation of the Hillside School as temporary quarters of school personnel while the Emery Grover issue is looked at.

Mr. Block asked what the condition was the school needed to be returned to after use. Ms. Newman stated the Board allowed them to keep the fence in place but gave them a year to let them know what the plans were for the school. They wanted to retain the parking lot in the form it was and allow them to keep that. Mr. Alpert asked when they will vacate the property. Ms. Newman stated the police are still therethere, but the Fire Department is asking for an occupancy permit for Fire Station 2. Ms. McKnight noted this appropriation is only for design funds. Work will be needed for swing space for the school personnel to move in there.

Ms. McKnight asked what the Planning Board role iswas. Mr. Alpert is not sure there is a role for the Board. She noted that ~~the~~ the Board does have an interest in the Stephen Palmer off-street parking under the affordable housing plan. Ms. McKnight stated she is planning to offer an amendment to "delete off-site parking at Stephen Palmer." They should not be considering using it for accessory parking for any other use. A discussion ensued. Mr. Alpert stated the Planning Board needs further discussion. If Ms. McKnight wants to make a motion it would be without Planning Board approval and not as a Planning Board member. He would need to see the revised plans.

Report of Planning Director and Board members

Ms. Newman stated she was contacted by John Fogarty of Beth Israel Deaconess Needham. The hospital has been doing Covid testing out of the parking lot. He asked if the Planning Board would give approval for testing to be done at the old emergency access at the back of the building during the winter. She noted their permit does not allow anything to happen at that access due to neighbor concerns. Mr. Alpert felt it should be a minor modification without a formal amendment.

Mr. Block and Ms. Espada left the meeting.

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

VOTED: to continue the meeting through the end of Town Meeting.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block Vice-Chairman and Clerk

NEEDHAM PLANNING BOARD MINUTES

November 2, 2021

The Needham Planning Board Virtual Meeting using Zoom was remotely called to order by Paul Alpert, Chairman, on Tuesday, November 2, 2021, at 7:15 p.m. with Messrs. Jacobs and Block and Mmes. McKnight and Espada, as well as Planning Director, Ms. Newman and Assistant Planner, Ms. Clee.

Mr. Alpert took a roll call attendance of the Board members and staff. 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. He noted this meeting includes 2 public hearings and there will be public comment allowed. If any votes are taken at the meeting the vote will be conducted by roll call. All supporting materials, including the agenda, are posted on the town's website.

Public Hearing:

7:30 p.m. – Amendment to Major Project Site Plan Special Permit No. 2009-06: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property located at 1471 Highland Avenue, Needham, MA). Regarding proposed Town Common renovation.

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.

Mr. Alpert noted the Board has received a letter from Town Counsel Christopher Heep ~~requestomg~~requesting the matter be continued to the 11/16/21 meeting. Revisions are being prepared to the site plan. Mr. Alpert noted there is no one at the meeting for this matter.

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 continue the hearing to 11/16/21 at 7:20 p.m.

De Minimus Change: Major Project Site Plan Special Permit No. 2008-09: Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioner (Property is located at 484 and 500 Dedham Avenue, Needham, MA).

Henry Haff, representative for the Town, noted this is a minor modification. The Town proposes to put 2 stations with 2 charging stations each at the Public Services Administration Building (PSAB). The ~~parking~~ spaces for these stations will be the first 4 spaces next to the handicap spaces. The first station is for one space and one handicap space. He showed the location of the old and new transformers. The original thought was they could connect to the existing transformer but access to the transformer was not available by Eversource. The second transformer has been moved as close as possible to the first transformer and the fence will be moved to cover both transformers. This keeps all the equipment as far as possible from the existing swale.

Mr. Alpert asked how high the fence is and was informed the existing ~~fence~~ is about 6 feet high. Mr. Jacobs asked how long it takes for cars to charge. Mr. Haff stated his ~~hybrid plug-in~~ car takes about 2 hours to charge but he only gets 20 ~~2002~~ miles. A Tesla would take about 8 hours. He noted the chargers they are installing are Level 2 chargers. Mr. Jacobs stated they are trying to encourage the use of electric. He asked if it should be real clear there is a limit on how much time a car can be parked in these spots and if they have thought about that. Mr. Haff noted the town has the ability to charge for charging. Other towns charge a low rate for the first 4 hours then a higher rate for hours after that. A time limit could be added but that would need to be monitored. He noted ~~that~~ to charge you need to give all your data and your credit card. It could be monitored that ~~wayway~~, but it will be a policy discussion.

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Mr. Jacobs asked whose policy? Mr. Haff noted the Select Board's. Also, the Traffic Advisory ~~Board-Committee~~ may weigh in. Mr. Jacobs asked if the Select Board has begun to think about that. Mr. Haff stated the Select Board is working on a climate action plan. He feels these will be part of that. There will be EVIP grant funding and "make ready" funding. Each station installed could be expanded up to 8 or 10 charging stations. ~~spaces 21-~~ Mr. Alpert asked who will use these stations at PSAB. Mr. Haff stated three employees have electric vehicles as of now and the stations will be open to the public. The town has two electric vehicles and will consider EVs on all future purchases.

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Ms. Espada stated she was concerned at first with the transformer being in the ~~wayway~~, but she is satisfied with that. Ms. McKnight is glad to have this presentation. It clarifies some things for her that she had misunderstood. She does not think an extension of the fence will detract from the area.

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

VOTED: to treat this as a de minimus change.

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 allow the relief requested.

7:45 p.m. – Major Project Site Plan: Needham Enterprises, LLC, 105 Chestnut Street, Suite 28 Needham, MA, Petitioner (Property located at 1688 Central Avenue, Needham, MA). Regarding proposal to construct a new child care facility of 9,966 square feet and 30 parking spaces, that would house an existing Needham child-care business, Needham Children's Center (NCC). Please note: this hearing was continued from the June 14, 2021, July 20 2021, August 17, 2021, September 8, 2021, October 5, 2021 and October 19, 2021 meetings of the Planning Board.

Mr. Alpert stated a question was raised at the last hearing regarding his part in these proceedings. He is turning the hearing over to Vice-Chairman Block. Mr. Block stated there is no definitive resolution of the alleged conflict with respect to Mr. Alpert so he will invoke the Rule of Necessity. A vote of at least 4 members is necessary to approve this project. The Board lacks a sufficient number of members necessary as a result of 2 members with conflicts – Ms. Espada and Mr. Alpert. In order to invoke the Rule of Necessity it is necessary for each member to disclose the facts that cause the conflict. Ms. Espada stated her house is across the street from the property being discussed so she has recused herself from the hearing.

Mr. Alpert stated he is legal counsel to Temple Beth Shalom as a non-voting Board member. The Temple has a children's center. It was put that he was a trustee of another children's center in town and has a conflict. He worked with Town Counsel Christopher ~~Heep~~Heep, and they called the Ethics Commission to see if he had a conflict. The lawyers from the State Ethics Commission asked multiple questions and they answered all the questions. The conclusion was the Ethics Commission would not state he had a conflict but could not state he did not have a conflict of interest. Their advice is that he recuse himself and not participate in the hearing. He takes this seriously and will not be a part of the hearing as of now.

Mr. Block stated, with only 3 members remaining but 4 members required to hear and vote, they needed to see if there were other ~~Boards's~~ that could hear this. They talked with Town Counsel and there are no other ~~Boards's~~, so there is a need to recall Mr. Alpert. Every effort was made to find a Board with legal power to act for the Planning Board. As a last resort he will invoke the Rule of Necessity. He, Mr. Block, will now Chair the public hearing process. Mr. Alpert noted there is an opinion from Town Counsel Heep, dated 11/2/21, which is part of the public record and is on the website. Mr. Jacobs noted the Chair has not said he wished to recall Mr. Alpert and that he accepts. Do we need to make that clear? Mr. Alpert clarified, once the Rule of Necessity is invoked, all members with a conflict are automatically called back and sit on the panel. Ms. Espada has missed more than one meeting under the Mullen Rule so she will not be recalled.

Mr. Block reviewed the ground rules for this hearing. When any new information is provided by applicants the attorney? Chair? will return back to the public for any questions. He will limit each speaker to 5 minutes total so

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all can be heard. He requested people not use the 5 minutes to repeat what previous speakers have said. Evans Huber, attorney for the applicant, stated, at Mr. Block's request, Ms. Day went through all sign in sheets for 2 months – one during the pandemic and one at full enrollment and submitted 2 charts. These charts have been prepared by Needham Children's Center (NCC) and represent actual arrivals of vehicles in 15-minute increments. The main take away is the vehicles do not all arrive in a 15 or 30-minute bunch and are well spread out in an 80-minute arrival window. In the morning there are never more than 10 vehicles arriving in a 15-minute window. There is a 10-vehicle drop off lane and plenty of parking. The concern that has been articulated will not happen as a matter of reality.

Mr. Huber noted the other update regards the traffic analysis and Level of Service [A?]. There was further discussion regarding how to analyze that between Mr. Gillon and Mr. Diaz and a memo was submitted. The main take away is during rush hour it is a Level D or F. This facility, if built, would somewhat further degrade the level of service at rush hour. If the lights are left alone there would be no meaningful impact and there would be a 932-foot backup. If the timing of the lights is changed how long the backups are north and south could be manipulated. It does not need to be all or nothing. The timing of the lights could be changed to make it somewhat better. That will be an engineering call. He stated Mr. Gillon used the numbers Mr. Diaz wanted him to use and are based on the square footage of the building. He feels that is a conservative analysis.

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Mr. Huber noted there has been a lot of discussion regarding the barn and using it for storage. Ms. Day went through the Baptist Church and identified all areas used for storage. Currently they are using 1,850 square feet of room space, sheds and garages. There is a need for storage and the intent to use the barn is real. Ms. Day prepared a list of the kinds of things she uses storage for. Some people continue to insist the use of the barn is not allowed. He noted that provision of the By-Law is superseded by the Dover Amendment. He noted the Temple Aliyah next door is running more than one non-residential use on a lot. The Dover Amendment allows them to do that.

Ms. McKnight stated she looked at Mr. Gillon's report and focused on figures 6, 7 and 8 in the report. She thought the concern was southbound traffic and taking a left turn across northbound traffic in the morning. That traffic will be delayed due to the northbound traffic volume. She would like that addressed. John Diaz, of Greenman-Pedersen, Inc. (GPI), stated there was a lot of confusion at the last meeting. They are looking at once cars arrive at the driveway what is the delay. The difference between driveway operations and queues to the driveway is 885 feet from the stop line at the light and the driveway. He looked at existing conditions. There is a 900-foot queue with a 2-minute delay and south in the afternoon there is an 800-foot queue with a one-minute delay. Mr. Huber stated that is based on current traffic counts and adjusted up by 30% for Covid.

Mr. Diaz explained the rationale and stated it has decreased between 2019 and 2020. There is a long queue northbound in the morning and a long queue southbound in the afternoon. This is with construction and based on square footage. In the morning it goes up by 11 seconds with construction. Southbound is up by 7-feet, which is less than a vehicle. The afternoon impacts the signal operations. The 907-foot queue goes up to a 950-foot queue, about 7 vehicles, with no change to signal operations. If the signal operations were optimized in the afternoon the queue can be reduced from 950-feet to 670-feet. He has asked the proponent to look at the morning again. A preliminary improvement would optimize. Ms. McKnight would like to focus on Figure 8. Are cars going to be able to zoom right in when they get to the driveway? Mr. Diaz stated for the most part as it will be a Level B for the left turn movement. Ms. McKnight noted in the evening pickup more would be heading southbound and that is a Level Service A. Mr. Diaz stated that is correct.

Mr. Jacobs stated his overall impression is under the optimized scenario they can make the traffic end up with shorter queues. Mr. Diaz noted that is correct southbound in the afternoon. Mr. Jacobs noted that does not clarify for him. Can it be improved? Mr. Diaz stated the concern has been the queue southbound in the afternoon. With timing, the queues can be 600 feet to under 400 feet. Mr. Block stated Mr. Diaz sent a letter the Board just received. He is going to leave the hearing ~~open~~open, so all have the opportunity to review it. Mr. Diaz stated he got new traffic counts in October and adjusted for Covid. He ran it as a work analysis under the existing no build. It would knock the queue down if the signal timings were optimized. He would need to figure out in town how to optimize those. He will follow up with a traffic study when the site is occupied and the police detail is in operation.

Mr. Diaz stated he has asked for truck turning templates several times and has not seen anything yet. The driveway apron and catch basin still have grading issues there. It could be the spot grades are in the wrong spot. He noted they are still requesting sidewalks be reconstructed in front of the property to a 6-foot width. John Glossa, of Glossa Engineering, Inc., stated the numbers were swapped on the grading for some reason. It did work if the numbers are correct. He noted he sent his client information on trash trucks. The sidewalk would be a decision for the Planning Board. Ms. McKnight noted Mr. Diaz's memo regarding mitigation. She asked what if the police detail goes on for months and still there is an arriving vehicle backup. What in the decision would say at that point there would be a requirement to extend the driveway? Mr. Alpert stated he would like to get an opinion from the town engineer regarding the sidewalk issue.

Ms. Newman spoke with engineering and agrees with the recommendation from John Diaz that the sidewalk should be constructed as he says. Mr. Huber noted right now there is a raggedy bridle path there and not a sidewalk. Putting an ADA 200-foot compliant sidewalk there does not make sense. Mr. Diaz stated the point is it is not safe now and below the grade of the road. The driveways and ramps at the drive opening are already being paved and they are putting in a drainage structure. Aesthetically and safety wise it should be done. Ms. McKnight commented it has been done in the past ~~ie.~~: Sun-Rise Terrace. It is a way of gradually improving the sidewalks.

Mr. Alpert stated the Baptist Church is in the Single Residence B District. The same rules are here. He asked how many separate buildings are at the church lot and the size of them. He would like to know more about the storage space at the church and what types of structures. Pat Day, owner operator of NCC, stated there is a large storage area attached to the building, a shed in the playground area, then an oversize double garage. The church has a lot of space and she would not have the amount of storage at the new space. This opens up a lot of possibilities for her. Ms. Newman called out to the Board's attention, and the attorney for the project, on this issue the zoning compliance table needs to be revised. The dimensional setback they used ~~is mistakenly from~~ comes out for Single Residence B. The standards are from an institutional use in Business District in this area. All is compliant but the zoning table needs to reflect actual setbacks and there is an actual FAR standard and carbon standard not reflected in the table. She noted they should be using Section 4.24. Mr. Huber noted Ms. Newman brought this to his attention. They are well within setbacks and all requirements. The Board took a brief recess.

Holly Clarke, of 1652 Central Avenue, stated Eileen Sullivan has been on every call and she would like to pass to her so she can participate. Mr. Block stated others had their hands up previously. He will continue the hearing in 2 weeks and in fairness to others with their hands up he will not let Ms. Sullivan speak now. Ms. Clarke noted she became aware of the matter in April. All the abutters thought if they combined their presentations together it would help. She contacted all back in April. She appreciates all the time the Board has put into this. She feels it would be helpful for the DPW to see the report on traffic. Just changing the traffic light would impact traffic in this neighborhood. One of the biggest concerns is nothing has been mentioned about driveways, neighbors, Country Way and how they will get out. You cannot just get into or out of your driveways. There are no gaps. Traffic gets filled in by Country Way and Charles River people. Taking a left across rush hour traffic you have to wait. If there are more than 100 trips there should be a turning lane but there is no room for a turning lane. She noted the driveways directly across would not be able to get out and this has not been discussed. That needs to be looked at. If someone has to stop to turn in that is where the backup would ~~begin~~ and it would go beyond Pine Street. She asked how they would take care of the rest of the street.

Mr. Block stated the Board members take all submissions seriously. He encourages all to submit concerns or comments in writing. Rob Dimasia, of 1681 Central Avenue, stated he lives directly across from the project. He wants to point out a simple math error. The traffic study noted traffic declines by 30% but has to go up by 43% to bring it up to par. He stated Mr. Huber summed it up. The applicant has lost the trust of the neighborhood. He has indicated at every turn he has no plans to be respectful, has no respect and has no desire to be a good neighbor. The property is an eyesore. The Board must consider the precedent of a 200-foot setback of the only other commercial building in the neighborhood. The Board should consider the permanent mitigations that would be placed in the neighborhood.

Elyse Park, of 19 Walker Lane, lives ¼ mile down from this site. She thanked the Board and noted she sent most of her comments prior. She has lived here for 8 years and sent her kids to preschools here. Traffic has become intolerable

over the 8 years. She wants the Board to consider the residents' quality of life. There is no quantitative information. The Board should reconsider the data. Any data collected in the last 1½ years is totally inaccurate. They are comparing apples to oranges. The church day care is on Great Plain Avenue and people can walk to it. The situation is not the same here. There would be working parents and people going to the trains. A chaotic situation is being created. The area is treacherous and no one can walk around the area. Cars will start using surrounding streets as cut throughs. The Board should think about why this is being considered. There are 3 elementary schools on this one street. The project is a burden to the neighbors. She asked the Board to listen to the residents.

Matthew Heideman, of 1708 Central Avenue, noted he is an immediate abutter and thanked the previous speakers for their comments. This has been a saga since 2020 when the land was purchased. All the same issues were raised many months ago and 500 people signed a petition against this due to impacts on all streets in this area. Over 100 trips per day are being brought here. To say there is a policy issue on traffic lights is appalling. He noted one of his children was almost hit by a car when retrieving a basketball that went into the street. Cars travel at 50 to 60 miles per hour to get to the light. This will cause a major issue where safety is a major concern. He raised this before the process ever began. He is upset this is even being considered. It is unethical and smoke and mirrors by the developer.

Tara Killeen, of 339 Country Way, stated she is a working parent with a 13-year old son who was in day care all the time. The day care took walks to local parks. That will not happen here. She is concerned with the location of this day care. There are no buses and trains for workers to get there. She is concerned traffic will spill over on South Street and other streets. The barn was not to be used, then it was to be used for storage for the children. She stated there needs to be a Plan B for the barn. Dave Lazarus, of 115 Oxbow Road, stated there are significant safety concerns. The Board has the ability to decide this cannot be developed. Traffic is a disaster on Central Avenue. He has 3 little children and there are a lot of little children here. It is not safe on Central Avenue. School buses are not allowed to let kids off on the left side of Central Avenue due to safety. The traffic is terrible. People will be focused on getting out of driveways and not on people on the bridle trail riding bikes or walking. A police detail does nothing for the other streets. There are many accidents there at Charles River and Central as it is a dangerous section of roadway. He is not opposed to daycare. It is really important to put daycares in, but it needs to be done smartly and safely. Once this is built it is too late. The RTS building had great concerns with traffic but was mitigated by not allowing people to work there. Then a couple of meetings ago they allowed people to work there at least for the time being. This shows once built it is too late.

Mr. Lazarus stated the Federal Highway Commission says driveways are potential conflict points. Good management starts with planning. Sidewalks help prevent issues. There are no sidewalks here and it is shocking the developer does not want to put one in. It is appalling to him, and the future tenant should be appalled, that the developer is not putting one in. The applicant should have to put a sidewalk in down to the light. Pedestrian crashes are 60 to 65%. He has wanted a crosswalk at Charles River and Central for a long time, but it is on the master plan for 40 years for a crosswalk there. The setback has to be pushed back. It is illegal to allow them to use the barn as they want. It cannot be permitted. It can be mitigated if you push it back. He implores the Board to put in conditions that the property cannot be further developed or subdivided. The public has been told 4 different things. The Board should decline to allow this to proceed.

Eric Sockol, of 324 Country Way, has been a resident for 54 years. He thanked the Board for the opportunity to speak. All the people who spoke before him spoke well and he reiterates their voices. It is bad traffic now and it is a joke to think you could put in a daycare center of that size and think traffic would be less. It would potentially be extremely disruptive and dangerous. 500 of his neighbors would be adversely affected. He is also speaking on behalf of future residents who will question how Needham could approve such a development in its current format. The state statute that permits this type of development may have good intentions, but you cannot fit a square peg in a round hole. It is critical a development of this significance have proper oversight and restrictions to reduce the probability of negative future outcomes. Needham needs to exercise sound judgements to avoid regrets. It is extremely challenging for a rational person to acknowledge this would improve traffic and safety. If approved, traffic and safety would be adversely affected. It is the moral obligation of the parties to do the right thing. The further back the building is placed, the more favorable the impact would be for traffic and safety. The Temple is set back 200 feet to mitigate issues. In a span of 2½ miles there are 2 elementary schools and a proposed daycare. This could lead to the perfect storm of traffic congestion. This will be a permanent structure with permanent problems.

He asked the Planning Board and the developer to do the right thing. Tear down the barn, set the center back as far as possible and limit the size to something reasonable.

Abigail Wilk, of 100 Windsor Road off Country Way, agrees with the previous speakers. She is the parent of 2 young children and soon to have a third. She is vehemently opposed to this. Most parents are dropping off the second you can, to get the most for your money, and picking up the latest possible. She is not sure where the studies are coming from and the 60 seconds per child for dropoff. It does not take 60 seconds per child. Conversations need to be had with teachers and kids need help getting out of the cars. It is a gross understatement of time. It is a lofty goal but not feasible. Her 2 kids take the bus to Newman. She is concerned what this will do to the buses. She walks dogs and is very concerned with safety. There will be a spillover effect to other streets. This has not been adequately addressed.

Beth Moskowitz, of 66 Cranberry Lane, stated she lives in the neighborhood, is a member of Temple Aliyah as a lay leader, and is not here in an official capacity. There are 29 children in their preschool. Drop off is from 8:00 a.m. to 9:00 a.m. but mostly around 9:00 a.m. The religious school afternoon pickup is around 5:00 p.m. She wants to make sure that is taken into consideration. She walks to the synagogue with her grandchildrengrandchildren, and it is treacherous. The sidewalks are awful. If they need to evacuate the building in an emergencyemergency, where are they going to go? Cars and traffic are a concern. She questions the use of the barnbarn, and the lack of transparency makes her uncomfortable.

Patricia Falco, of 19 Pine Street, stated she lives where Central Avenue runs at Pine Street. They had a 5-car crash a couple of months ago. Pine Street residents have been before the ~~†Traffic~~ Management Committee several times to enforce the one-way street. Traffic has failed them repeatedly over the years. She is a 38+ year resident and 35 years at Pine Street. She is a mother and used the Carter Church Day Care in the commercial zone. This is a one-acre residential zone and is way overdeveloped. They are asking for over one acre of commercial use. This should not be put in [with?without?] rezoning. There is an August 11 date on the traffic study. She asked if that is the date of the report or the date of observation. Many are on vacation and there is no one at the temple in August. She does not believe this information. Planning Board members asked if this is a bad fit for the neighborhood and she feels it is absolutely a bad fit. To get into town she needs to take a left onto Charles River then a left onto Central. This only increases their ride to town. She can't get out of the drive between 4:30 and 6:30 p.m. People speed and there are no blind driveway signs or slow down signs. She cannot imagine it getting worse. School buses stop all along Central Avenue as it is too dangerous for the kids to walk. She does not think that is taken into account. There definitely should be a larger setback. There should be conditions the lot not be used for anything else and cannot be subdivided. She noted an LLC is a for profit and does not belong here. It makes no sense to her. She noted Mr. Jacobs and Mr. Block asked if it is a bad fit. She stated it is a terrible fit.

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Kristy Thompson, of 50 Windsor Road, has live here for 8 years and in Needham for 15 years. Her son went to NCC. She agrees with the previous panelists on the traffic. She noted her husband is a health care worker and needs to get to work on time. He is having to leave earlier and earlier and is losing family time. She is also concerned with contaminants and that particles of lead could be released into the site. The report says this will be addressed or is not a concern. Lead could be released up to 20 years. She wants to know what the mitigations will be and that the soil will be tested. Also, the surrounding neighbors' soils should be tested so kids are not exposed.

Gregg Darrish, of 34 Country Way, noted overflow and traffic patterns. There is already an d overflow issue with Charles River and Country Way. It is too difficult to pull out of Country Way onto Central Avenue. There is a backup on South Street and Chestnut Street now due to people avoiding Central Avenue. This is going to make the light longer on Charles River and people rush down Village Lane to avoid the light. He noted the correspondence between Mr. Borrelli and Ms. Day is a conflict of interest and they are being told it is not an issue. Ms. Day is not a client of Mr. Borrelli as there is no lease. Why are we talking about Ms. Day and her childcare center if there is no lease and there is no obligation for her to be a tenant there? This is not relevant if there is no business relationship.

Mr. Block noted it was 10:20 p.m. and he was going to allow 2 more speakers. Lois Merrill, of 31 Bridle Trail Road and a retired attorney, stated she worked in municipal law early in her career. She appreciates all the Board members do. She has lived here 42 years. She asked if the study calculations of drop off times at the current location were adjusted for the new enrollment. She assumes there will be an increase in enrollment. Mr. Huber noted the charts

clearly state the number of children. The last chart says 105 children. The new center will have 115 children. They are not doubling the enrollment. Mr. Block stated, if the project is conditioned for 115 children, they cannot exceed that. If the center is sold, that would also be a condition for the new owner. Ms. Merrill stated the Board should lower the number. There was a comment that everything could be better by changing the lights. If it was that simple, why has it not been done? The Board of Health was on the Board for a site study due to an unlicensed body shop there. One month later that is not necessary, and she asked why? She commented that if Mr. Borrelli was concerned with being such a good neighbor where is he?

Andrea Brayden, of 185 Country Way, stated she has not heard anyone in favor of this. She has heard a lot of neighbors, and no one is in favor. The Board should consider that. They do not want it. She is not anti-daycare. She has kids in daycare. Listen to the traffic study. You can put the numbers in to get the results you want. School was not in session on 8/11/21. It will take ½ hour to drive from Country Way to Newman School. Every car will have to cut across traffic and she disagrees with the one minute drop off. Kids do not do things on your schedule. This will have a major traffic impact. She urges the Board not to accept that and just drive down Central Avenue. She stated she sat through 5 hours of hearings and there was a petition signed by a lot of neighbors.

Eileen Sullivan, of 1695 Central Avenue, stated she is a teacher and lives directly across the street. She has attended most meetings and has many concerns about the proposal. The building is pretty much on top of the street and very high. It will sit right on Central Avenue. It will not fit in the residential neighborhood. People live here and raise their children here. The sidewalk is not a sidewalk but a joke. It is dangerous to walk there. The building does not fit in the neighborhood. The Temple has been pushed back and is screened by trees in front. She has dealt with their traffic. Newman School starts at 9:00 a.m. due to traffic. She agrees with everyone who has spoken. She implores the members to come sit in her driveway to see the traffic. The proposed drop off is not one minute per child to get them out. Toddlers may not get out of the car, there are snow suits, back packs, car seats. It is not reasonable to assume the children are in the building in one minute.

Ms. Sullivan noted the overflow off Central. It is not realistic trying to make it work out. It is a huge inconvenience for abutters and travelers from other towns. There is more and more increased traffic since she has lived there. She leaves her house at 7:00 a.m. to get to work in Newton. It takes 45 minutes but on non-school days it only takes 20 minutes. Cars do not follow the speed limit. She noted her school has 2 lanes for drop off and there is none here. There is no way for people to go around cars here. She also noted you cannot enforce a staggered drop off. She thanked the Board members. It is not an easy process, and she thanked all the neighbors. This is their home and a residential neighborhood. She requested they please consider that and the safety of the children.

Mr. Block noted the following attendees with their hands up that will be first to speak at the next meeting: Stan Keller, Evan Roche, Maggie Abruzese, Matt Heidman, Steven Spitz, Holly Clarke, David Lazarus, Joe Abruzese, Sara Lyons, Patricia Falco and Gregg Darrish. Ms. Newman noted there are 2 other hearings on the agenda for the 11/16 meeting and 2 appointments. The next meeting on 12/8 is open. She stated they have been pushing people off to accommodate this project. Mr. Huber stated the first schedule for this hearing was in May. There have been 8 scheduled meetings and a number of continuances and delays not contributable to the applicant. He would not like any more delays. It is not fair to the applicant. He would like it continued to 11/16 even if it has to start at 9:00 p.m.

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 continue this hearing to 11/16/21 at 8:30 p.m.

Mr. Block assured the public the Board members do not take anything lightly. They take this very seriously and weigh all comments and information. He stated the public's voice is important.

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

Board of Appeals – November 18, 2021

646 Webster Street – Silva Development, LLC, applicant

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

VOTED: "No comment."

43 Brackett Street – Ravi Talasila and Anupama Manachikalapudi, owners

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

VOTED: "No comment."

Minutes

Mr. Block noted on page 2, 2nd to last paragraph, the sentence should be revised to say "if it would require a special permit."

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

VOTED: to accept the minutes of 8/17/21 as amended.

Correspondence

There is no correspondence.

Report from Planning Director and Board members

Ms. Newman stated she and Assistant Planner Clee have been working with the Town Manager's office for a timeline for outdoor dining to implement new zoning. She expects they will be looking at a lot of applications. She noted a complicated site plan was issued to the Select Board for outdoor seating on the municipal lot on Chapel Street. The protocol is the Select Board issues permits for outdoor dining. They need to amend the site plan to show which spaces will be eliminated. Once the Planning Board approves, the Select Board issues the permit. It would be better to allow the Planning Board to amend the underlying Special Permit and to allow the Select Board to approve outdoor dining on that municipal parking lot. The Planning Board could set the parameters for number of spaces allowed to be tied to the condition under Section 6.9. It could be modified but in a ~~broad-based~~ broad-based way.

Mr. Alpert stated they should give the Select Board discretion to approve outdoor dining in the municipal parking lot. Mr. Block noted it should be made clear only as affect the parking lot in the Chapel Street lot. All agreed. Ms. Newman noted the Select Board wants to waive the filing fees for restaurants for the 2022 calendar year for outdoor dining. They want to know if the Planning Board would be willing to waive their fees. The Planning Board charges \$100 for the outdoor dining process and \$1,000 if it is an amendment. The Select Board charges a \$25 fee. She asked if all fees should be the same. Mr. Block asked what the rationale is for what they charge. Ms. Newman noted she did a comparable with other communities as of 5 years ago. It is \$250 if it is a de minimus change.

Mr. Jacobs asked what the impact to the Planning Board budget would be. Mr. Alpert explained that when fees are ~~collected~~ collected, they go into the general revenue of the town and are not earmarked for the Planning Board. It is controlled by the Town Manager and Finance Committee. Mr. Jacobs stated restaurants have suffered but so have a lot of other small businesses. Maybe it should be done for others. Mr. Block agreed. Ms. McKnight stated they should waive the minor fees but should not change the regular fee of a major project. A discussion ensued. A motion was made to waive fees to mirror the policy of the Select Board for calendar year 2022 for outdoor dining for restaurants. Ms. McKnight stated she would vote against. Minor fees should be waived but if it is anticipated it would be a major project with a hearing the full fee should be paid. An amendment was suggested to waive filing fees for de minimus changes and applications to amend a special permit for the purpose of allowing outdoor seating.

ED:

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

to waive the filing fees for de minimis changes and applications to amend special permits for the purpose of allowing outdoor seating.

Ms. McKnight noted they had the first meeting of the housing plan working group. She felt good about it. It was well planned and went smoothly. She asked if there has been a ZBA appointee yet. Ms. Newman stated there has not been but maybe Ms. McKnight should reach out to Jon Schneider personally to see if they can get a Zoning Board delegate. Ms. Espada noted it was a great committee. There was a lot of discussion and voices. Mr. Alpert thanked Ms. McKnight for her great handling of getting the Citizen's Petition referred back at the recent Special Town Meeting.

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 adjourn the meeting at 11:15 p.m.

Respectfully submitted,
Donna J. Kalinowski, Notetaker

Adam Block, Vice-Chairman and Clerk

From: [Emily Bonkowski](#)
To: [Planning](#)
Subject: 888 Great Plain Ave Proposal
Date: Tuesday, January 18, 2022 4:52:25 PM

Dear Planning Board members,

I am writing to state my opposition regarding the request to rezone 888 Great Plain Avenue. As a member of the neighborhood that would be impacted by this change, I am very concerned about the proposed development. The proposed development is too dense, does not respect the 50 foot setback requirement, and is dangerous to the many pedestrians in the area.

888 Great Plain Avenue is part of a residential area with significant pedestrian activity. This new plan endangers pedestrians, in a spot where a large number of children cross Great Plain Ave, making their way between Greene's Field and Needham House of Pizza and Abbott's.

Hillcrest Gardens was able to operate on this property because nurseries have been able to operate in residential zones. The proposed new development shows no consideration for the importance of green space and setbacks. It is an eyesore that is too large for the parcel of land.

It is also clear that there is no need for additional retail space given the number of vacant storefronts in town. I don't understand why the Planning Board would look to add more commercial space, especially in an established residential area.

I hope that the Planning Board will not approve this development.

Thank you for your consideration.

Regards,

Emily Bonkowski

83 Fair Oaks Park

Needham, MA 02492

From: [Kiyoko Morita](#)
To: [Planning](#)
Subject: Proposed development for 888 Great Plain Ave
Date: Tuesday, January 18, 2022 8:27:48 PM

Dear Planning Board members,

I am emailing you about the proposed development for 888 Great Plain Ave and the proposed zoning changes for that development.

As a Needham resident of 60 years, and living in the vicinity of 888 Great Plain Ave., we are very concerned about this proposal, which:

1. disregards the importance of green space and setbacks
2. endangers pedestrians
3. squeezes too many residential units into a small space
4. adds unnecessary commercial space to downtown
5. adds more traffic that is extremely close to the Greene Field playground

We are especially concerned that the developer's financial plans rely on an assumption of filling commercial space on the first floor, but the large number of open commercial space in Needham indicates that there are already too many vacant storefronts throughout Needham, and more than enough to accommodate an improved market that we hope will arrive after the Pandemic is more under control.

We sincerely hope that the Planning Board will NOT approve this development, at least not as proposed.

Thank you for your consideration of these concerns.

Respectfully,

Michael & Kiyoko Caine
37 Fair Oaks Park
Needham, MA 02492
781-449-2636

From: mafanning@gmail.com
To: [Planning](#)
Subject: Proposed Building at 888 Great Plain Avenue
Date: Tuesday, January 18, 2022 2:04:40 PM

I live at 853 Great Plain Avenue on the corner of Warren Street and across the street from the proposed mixed use building at 888 Great Plain Avenue. I am adamantly opposed to the proposed building for several reasons:

1. First and foremost, why has no one in my building (there are 3 condominiums at 853-855 Great Plain Avenue) been put on notice of this proposed project even though it is so close to our property? Luckily, I happen to find out about it from a friend who lives on the other side of town. Please put me on your notification list for all future proposals and meetings regarding this matter.
2. I personally appeared 2 times on behalf of the Charles River Ballet when they wanted to have classes in the church across the street because of the town's concerns about additional traffic and parking. There were less than 5 extra cars at the end of each class at issue, yet the town more than put the business through ridiculous hoops before allowing them to hold classes there. And no one in the neighborhood was opposed to them doing so.

As I stated in support of the Charles River Ballet, the YMCA youth soccer program and the baseball at Green's Field cause a considerable traffic and parking problem on Great Plain Avenue and Warren Street on a regular basis. Even though our property is private, people in the town treat it like their own personal parking lot especially when they are running late and legal parking cannot be found. I have had to have cars towed for parking behind my car in my private driveway. People routinely cut through our property. There is considerable littering in the area on "game days". And so I ask you, what consideration has been given to the increase in foot and motor vehicle traffic and parking for whatever business(es) occupy the first floor of the building, especially during soccer and baseball seasons?

3. There are several empty storefronts in town already so why are you considering additional commercial businesses at this time? I would appreciate additional information as to what businesses are being proposed. As it is, there is insufficient parking in town for the current businesses and restaurants.
4. The building is an eyesore, unattractive and wholly inconsistent with the look and feel of the other buildings in the area including our property, the YMCA and the two churches beside 888. And, it is not consistent with the other (mostly) brick buildings at the edge of the current commercial block. If you are going to allow a new building, at least require it to blend in with the building styles and materials of the existing buildings around it.
5. What is the proposed parking situation for residents of the building? Will they be accessing the parking from Great Plain Avenue and/or Highland Avenue? Since both are main busy thoroughfares on a consistent basis, neither one seems like a viable option.

I plan to attend the meeting this evening and will be in touch with more concerns as they become apparent during these meetings.

Michaela A. Fanning

Michaela A. Fanning, Attorney At Law

Law Office of Michaela A. Fanning
Post Office Box 920137
Needham, MA 02492
(617) 947-9474

From: atfinucane@comcast.net
To: [Planning](#)
Subject: 888 Great Plain Avenue
Date: Tuesday, January 18, 2022 2:44:44 PM

To the Needham Planning Board,

I am writing about my concerns with the proposed redevelopment of 888 Great Plain Avenue. I feel that the current proposal disregards the importance of green space and setbacks, endangers pedestrians and shoehorns too many residential units into the given space. I also don't think that our downtown needs additional retail space, especially since there are a lot of empty storefronts.

Thank you in advance for supporting responsible development for this area.

Sincerely,

Anne Finucane
25 Sargent St
Needham, MA 02492

From: [Dan Goodman](#)
To: [Planning](#)
Subject: 888 Great Plain ave
Date: Tuesday, January 18, 2022 5:06:14 PM

Dear members of the Planning Board,

I'm writing in regards to the proposed new property at 888 Great Plain Ave. I've lived in Needham for nearly 15 years and currently live a few houses down from this proposed project.

I am a proponent of adding more housing to our downtown. More people will lead to more amenities like shops and restaurants. We have a number of store fronts in the center that are vacant right now, and the reason why is that there are no customers. There is very little foot traffic to sustain our businesses. We need projects like this to get our town center to be the vibrant place we know it can be.

I believe that it is in the best interest of the town to approve these zoning changes and allow this project to move forward. The only change I would suggest is adding a bit of a setback to the Great Plain Ave frontage to allow for outdoor seating.

Thank you for your consideration.

Sincerely,
Dan Goodman
807 Great Plain Ave

From: [Samuel Graves](#)
To: [Planning](#)
Subject: 888 Great Plain Ave
Date: Tuesday, January 18, 2022 1:30:49 PM

To: The Needham Planning Board
From: Sam Graves, Needham resident
Re: Redevelopment at 888 Great Plain Avenue

Members of the Needham Planning Board:

As a neighbor to the property at 888 Great Plain, and as a long-time Needham resident (35+ years) I am writing to express my strenuous objections to the redevelopment proposed for this site. One of the attractions of Needham when we moved here in 1986 was the village-like ambiance of the Needham town center, an architectural character the town has maintained for at least a century.

The proposed construction I must say, can only be described as a desecration of this tradition. The proposed building is much too large for the location, and would loom over, and, in fact, dominate the traditional small one-story buildings in its vicinity.

Further, the modernistic design is ruthlessly out of character with its surroundings, which include the elegant New England style of the First Baptist Church (circa 1890) and its lovely neighbor, The Christian Science Church (circa 1902).

Aside from the inappropriate design, I have other concerns:

The design occupies almost all of the acreage of the existing property. What was once a charming scene of plants and greenery would now be all concrete. Reduction of the setback would only further reduce the potential for green space.

There are currently empty store fronts in Needham. Is there any evidence to show that this construction would not contribute to additional empty storefronts in the original town center?

I sincerely hope that the Planning Board will take these concerns into account before approving a development which will compromise the very character of Needham's town center.

Sincerely,

Sam Graves
94 Warren St.
Needham MA

From: [Naomi Litrownik](#)
To: [Planning](#)
Subject: Please don't develop this
Date: Tuesday, January 18, 2022 4:09:11 PM

As a resident at 35 Greenwood Ave, Needham Center for almost three decades, of Needham Heights prior to this, and a downtown Needham business office renter for three plus decades, I am writing to object to the proposed development and rezoning plans for 888 Great Plain Ave.

This is upsetting due to the following reasons:

1. The disregarding of the importance of green space and setbacks
2. The endangerment of pedestrians
3. The constriction of too many residential units into the given space
4. The adding of unnecessary commercial space to downtown, when there is already an over - abundance of vacant office space.

I'm especially concerned that the developer's financial plans rely on an assumption of filling commercial space on the first floor, but the large number of open commercial space in Needham indicates that there are already too many vacant store fronts throughout Needham, and more than enough to accommodate an improved market that we hope will arrive after the Pandemic is more under control.

I sincerely hope that the Planning Board will NOT approve this development, at least not as proposed.

At a minimum, I hope the developer would provide a revised plan with far great setback and green space in front of the building.

Thank you for your consideration of these concerns.

Sincerely, Naomi Litrownik, LICSW

Sent from my iPhone

From: [K. McDirks](#)
To: [Planning](#)
Subject: Opposing 888 GPA plans
Date: Tuesday, January 18, 2022 2:50:26 PM

Hello,

I am writing in opposition to the plans to develop 888 Great Plan Ave as an extension of the business district. This proposed property changes the downtown landscape and adds more commercial space that is not needed. It will ruin the street scape of this end of GPA with Greens Field and historic churches. I am against this project and hope that you will not support it.

Katy Dirks
674 Webster St

Sent from my iPhone

From: [Mary Ellen's Email](#)
To: [Planning](#)
Subject: Hillcrest Project
Date: Tuesday, January 18, 2022 6:22:02 PM

We are long time residents of Needham as well. Live very close to town. Now our grandchildren live in Needham as well. One of the nicest things about Needham is “ the town”.

We love walking uptown. So pretty, the common, the stores, hearing the trains.

To see stores struggling to hang on through this pandemic, imagine how they feel when they hear more retail space is coming coming.

Surely there is a better use of this beautiful piece of property, rather than this idea.

Fredie Kay expressed our thoughts perfectly. Please consider keeping this entrance to the center safe and uncluttered.

Thank you

Mary Ellen And Mike Shea

Sent from my iPhone

From: [Sherri Stucker](#)
To: [Planning](#)
Subject: 888 Great Plain
Date: Tuesday, January 18, 2022 5:48:01 PM

I am writing to support the idea of a multi-use dwelling at the site of Hillcrest Gardens.
I think it's a prime location for many people who would like to live in downtown Needham and wish to take advantage of the location by being able to walk everywhere. As a current longtime Needham resident, I would like to see apartments, both market value and some affordable housing 40(B). It is somewhere I would enjoy living. Many of us are getting priced out of the Needham housing market. I believe we need more rental units and less McMansions.

Thank you for looking after our town and residents,
Sherri Stucker

Sent from my iPhone

From: [Karen Walker](#)
To: [Planning](#)
Subject: Hillcrest Gardens property
Date: Tuesday, January 18, 2022 2:13:53 PM

To Members of the Planning Board:

I have recently become aware of potential plans for the development of the property at 888 Great Plain Ave, formerly the Hillcrest Gardens.

I live at 13 Webster Park, a short walk from that site. Prior to the closing of Hillcrest Gardens, I loved the decorative quality that the owner carefully created throughout the seasons. While I generally support efforts to increase Needham's commercial zoning, to bring goods and services into our town and increase our commercial tax base, I find the proposed new building to be a real eyesore . It is completely out of character for the surrounding commercial and residential properties.

I see little need for increasing commercial zoning, since the town seems unable to support and keep current businesses. However, should the planning board feel that commercial and residential zoning is appropriate for this property, I request that the kind of building proposed fit into its surroundings. What is currently proposed definitely does not.

Sincerely,
Karen Walker

From: Abby Carr <abbycarr5@gmail.com>
Sent: Tuesday, January 18, 2022 11:30 AM
To: Planning
Cc: John Carr
Subject: Development of 888 GPA

Follow Up Flag: Follow up
Flag Status: Completed

Dear Planning Board members,

I am emailing you about the proposed development for 888 Great Plain Ave and the related zoning changes. While I understand the commercial value of developing this site, I do have concerns about its impact on the rest of our retail space in Needham.

We moved to Needham from New York City in 2015 mostly due to the town's overall culture, school system, and the walkability and "town village" feel of the downtown area. My concerns about the 888 GPA proposed development are these:

1. We already have a number of empty retail spaces, and I am concerned that adding square footage to the downtown retail will lead to the entire area staying under-tenanted and adding to a feel of vacant, abandoned store fronts.
2. We've seen in many New England small towns how a vacant downtown area makes the entire area become unappealing, leading to a downward value spiral.
3. We don't need luxury housing -- if anything, we should be building affordable housing units.
4. We should absolutely keep the setback to preserve the walkability/village feel.

This is a prime location, and I believe that we should be looking to multiple land use options before the town makes a decision. Please do not approve this development as proposed, without addressing community concerns.

Thank you.

Sincerely,
Abby Carr
864 Webster Street

--

Abigail Gouverneur Carr
646-413-0380 cell



From: jennifer meyerhardt <jennifermeyerhardt@gmail.com>
Sent: Tuesday, January 18, 2022 11:46 AM
To: Planning
Subject: Rezoning of 888 Great Plain Avenue

Follow Up Flag: Follow up
Flag Status: Completed

Dear Planning Board:

I am deeply concerned about the proposal to rezone the former Hillcrest Gardens Site and the proposal put forth to build a mixed use building on the land.

My concerns are the following:

1. The proposal disregards the importance of green space and setbacks; 2. The proposed underground garage endangers pedestrians and dissuades foot traffic; 3. The proposed building shoehorns too many residential units into the given space; 4. The mixed use proposal adds unnecessary commercial space, particularly given the number of open storefronts in Needham; 5. While affordable housing is absolutely necessary in Needham, I do wonder how affordable these units will be given the plan and footprint of the building.

Thank you for consideration of this letter.

Best,

Jennifer Meyerhardt
102 Birds Hill Avenue
Needham, MA. 02492

From: [Jackie Boni](#)
To: [Planning](#)
Subject: 888 Great Plain Ave Comment
Date: Wednesday, January 19, 2022 11:10:01 AM

Hi Planning Board,

I wanted to send a quick note b/c I was unable to attend the meeting last night. I am against the proposed development plan at 888 Great Plain Ave. I have lived in Needham for over 20 years and one of the parts of the town is the downtown area. I feel this proposal would:

1. Disregard the setback and not include any green space
2. Potentially endanger pedestrians with the plan for the garage and number of spaces
3. Too many residential units in a small space
4. Half of downtown is currently empty - or at least feels it, why would need to expand the commercial area?

I am very disappointed with a number of recent projects, I moved to Needham, not Newton and would like to keep the charm of Needham while continuing to grow in a responsible way. This project appears to be a contractor maximizing a space for profit.

Please consider my opinion as well as my husband's.

Thank you,
Jackie & Rafal Boni
13 Nichols Rd, Needham, MA 02492

From: mafanning@gmail.com
To: [Planning](#)
Subject: RE: Proposed Building at 888 Great Plain Avenue
Date: Thursday, January 20, 2022 12:03:49 PM

I appreciate it. After listening in on the hearing the other night, I am concerned about the scale of the building which is way too big for this neighborhood. No building should dwarf other buildings around it. The fact that it may "fit" size wise does not mean the town should allow it. A 3-4 story building beside other shops that are 1-2 stories high hardly seems appropriate. And 10 feet away from the church is way too close. While some homes in the area may be high, there is a big difference between a sloped residential roof and a flat roof that is consistently high all the way across. There will also be a traffic nightmare when sporting events are occurring at the field across the street. It is bad enough now as it is. While the proposed parking may be out back, there will be those looking for parking on Great Plain Avenue to they can access the stores from the front of the building.

From: Alexandra Clee <aclee@needhamma.gov> **On Behalf Of** Planning
Sent: Thursday, January 20, 2022 11:54 AM
To: 'mafanning@gmail.com' <mafanning@gmail.com>
Subject: RE: Proposed Building at 888 Great Plain Avenue

Hi there,

I have received your comments and will share it with the Planning Board.

Thanks, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: mafanning@gmail.com <mafanning@gmail.com>
Sent: Tuesday, January 18, 2022 2:04 PM
To: Planning <planning@needhamma.gov>
Subject: Proposed Building at 888 Great Plain Avenue

I live at 853 Great Plain Avenue on the corner of Warren Street and across the street from the proposed mixed use building at 888 Great Plain Avenue. I am adamantly opposed to the proposed building for several reasons:

1. First and foremost, why has no one in my building (there are 3 condominiums at 853-855 Great Plain Avenue) been put on notice of this proposed project even though it is so close to our property? Luckily, I happen to find out about it from a friend who lives on the other side of town. Please put me on your notification list for all future proposals and meetings regarding this matter.
2. I personally appeared 2 times on behalf of the Charles River Ballet when they wanted to have classes in the church across the street because of the town's concerns about additional traffic and parking. There were

less than 5 extra cars at the end of each class at issue, yet the town more than put the business through ridiculous hoops before allowing them to hold classes there. And no one in the neighborhood was opposed to them doing so.

As I stated in support of the Charles River Ballet, the YMCA youth soccer program and the baseball at Green's Field cause a considerable traffic and parking problem on Great Plain Avenue and Warren Street on a regular basis. Even though our property is private, people in the town treat it like their own personal parking lot especially when they are running late and legal parking cannot be found. I have had to have cars towed for parking behind my car in my private driveway. People routinely cut through our property. There is considerable littering in the area on "game days". And so I ask you, what consideration has been given to the increase in foot and motor vehicle traffic and parking for whatever business(es) occupy the first floor of the building, especially during soccer and baseball seasons?

3. There are several empty storefronts in town already so why are you considering additional commercial businesses at this time? I would appreciate additional information as to what businesses are being proposed. As it is, there is insufficient parking in town for the current businesses and restaurants.
4. The building is an eyesore, unattractive and wholly inconsistent with the look and feel of the other buildings in the area including our property, the YMCA and the two churches beside 888. And, it is not consistent with the other (mostly) brick buildings at the edge of the current commercial block. If you are going to allow a new building, at least require it to blend in with the building styles and materials of the existing buildings around it.
5. What is the proposed parking situation for residents of the building? Will they be accessing the parking from Great Plain Avenue and/or Highland Avenue? Since both are main busy thoroughfares on a consistent basis, neither one seems like a viable option.

I plan to attend the meeting this evening and will be in touch with more concerns as they become apparent during these meetings.

Michaela A. Fanning

Michaela A. Fanning, Attorney At Law
Law Office of Michaela A. Fanning
Post Office Box 920137
Needham, MA 02492
(617) 947-9474