

NEEDHAM PLANNING BOARD

Tuesday March 15, 2022

7:15 p.m.

Virtual Meeting using Zoom

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

(Instructions for accessing below)

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

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

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

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

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

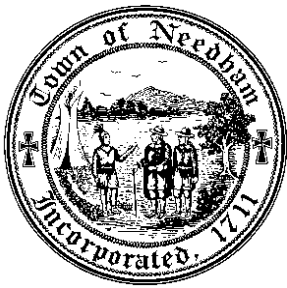
1. Public hearings:

- 7:20 p.m. Amendment to Major Project Site Plan Special Permit No. 2005-07: Needham Gateway LLC, 66 Cranberry Lane, Needham, Massachusetts, Petitioner. (Property located at 100 and 120 Highland Avenue, Needham, Massachusetts). Regarding request for the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters for cardboard to be located within the parking lot.
- 7:30 p.m. Amendment to Major Project Site Plan Special Permit No. 2005-07: CNC Golf LLC, 113 Everett Street, Concord, MA and Needham Gateway LLC, 66 Cranberry Lane, Needham, Massachusetts, Petitioners. (Property located at 100 and 120 Highland Avenue, Needham, Massachusetts). Regarding request for a new principal use described as an indoor athletic facility providing computer simulated golf activities in the building. Please note: The Petitioner has requested that this application be withdrawn.
- 7:40 p.m. Amendment to Major Project Site Plan Special Permit No. 2005-07: Carbon Health Medical Group of Florida, PA, 300 California St (Suite 700), San Francisco CA and Needham Gateway LLC, 66 Cranberry Lane, Needham, Massachusetts, Petitioners. (Property located at 100 and 120 Highland Avenue, Needham, Massachusetts). Regarding request for a new principal use in the subject property, described as a medical professional office providing primary and walk-in medical care.
- 8:00 p.m. Major Project Site Plan Special Permit No. 2022-01: Needham Farmer’s Market, Inc., 28 Perrault Road, Apt. #1, Needham, MA 02494 and Town of Needham, 1471 Highland Avenue, Needham, MA, Petitioners. (Property located at Greene’s Field, Needham, Massachusetts, shown on Assessors Plan No. 50 as Parcel 31-02 containing 108,278). Regarding request to operate a farmers market on a portion of Greene’s Field on Sundays during the renovation of

the Town Common. *Please note: this hearing is a continuation from the March 1, 2022 Planning Board meeting.*

2. Request to withdraw application: Amendment to Major Project Site Plan Special Permit No. 2005-07: CNC Golf LLC, 113 Everett Street, Concord, MA and Needham Gateway LLC, 66 Cranberry Lane, Needham, Massachusetts, Petitioners. (Property located at 100 and 120 Highland Avenue, Needham, Massachusetts).
3. Decision: Amendment to Major Project Site Plan Special Permit No. 93-3: Wingate Development, LLC, 63 Kendrick Street, Needham, MA 02494, Petitioner. (Property located at 589 Highland Avenue, Needham, Massachusetts). Regarding the conversion of the existing 142-bed skilled nursing facility to 50 Independent Living Units.
4. Review and Discussion of DRAFT Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act.
5. Board of Appeals – March 17, 2022.
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.)



PLANNING DIVISION
Planning & Community Development

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.11; the Needham Zoning By-Laws, Sections 7.4, 5.1.1.5, 5.1.2, 5.1.3, and Section 4.2 of Special Permit 2005-07 (as amended, the "Decision"), the Needham Planning Board will hold a public hearing on Tuesday, March 15, 2022 at 7:20 p.m. by Zoom Web ID Number 826-5899-3198 (further instructions for accessing are below) regarding the application of the Needham Gateway LLC, 66 Cranberry Lane, Needham, MA, for an Amendment to the Decision under Site Plan Review, Section 7.4 of the Needham Zoning By-Law and Section 4.2 of the Decision.

The subject property is located at 100 and 120 Highland Avenue, Needham, Massachusetts, shown on Assessor's Map No. 73 as Parcel 18 containing 82,582 square feet and is partially located in the New England Business Center Zoning District and partially located in the Highland-Commercial 128 Zoning District. The requested Site Plan Special Permit Amendment would, if granted, allow the installation and use of an additional dumpster enclosure with up to three additional trash dumpsters therein to be located within the parking lot of the subject premises as shown on a plan submitted to the Planning Board, to be used exclusively for disposal of cardboard materials.

In accordance with the Zoning By-Law, Section 7.4 and Section 4.2 of the Decision, further site plan approval is required for the installation and use of the enclosure and the additional dumpsters therein. In accordance with the Zoning By-Law, Section 5.1.1.5, a Special Permit is required to waive strict adherence with the requirements of Sections 5.1.2 (Required Parking) and 5.1.3 (Parking Plan and Design Requirements) of the Zoning By-Law.

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

The application may be viewed at this link:

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

NEEDHAM PLANNING BOARD

Needham Times, February 24, 2022 and March 3, 2022.

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

VIA EMAIL

February 17, 2022
Town of Needham
Planning Board
c/o Planning Department
50 Dedham Avenue
Needham, MA 02492
Attn: Lee Newman, Director

Re: Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 for
Property at 100-120 Highland Avenue, Needham, MA (the "Center")

Dear Board Members:

On behalf of the Applicant, Needham Gateway, LLC, enclosed are the following:

1. Application for Amendment to Major Project Site Plan with Rider A attached; and
 2. Site Plan showing proposed location of the enclosure for additional dumpsters.
- A check for the filing fee will be delivered under separate cover.

Please instruct the newspaper to send the invoice for the legal notice to:

Michael Moskowitz
66 Cranberry Lane
Needham, MA 02492
Tel No. (781)-910-7933

Thank you for your cooperation in this matter.

Very truly yours,



Richard S. Mann, Esq.
Attorney for Needham
Gateway, LLC
cc: Michael Moskowitz

TOWN OF NEEDHAM
MASSACHUSETTS



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

PLANNING BOARD

FURTHER
APPLICATION FOR/SITE PLAN REVIEW

Project Determination: (circle one) Major Project Minor Project

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

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

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

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

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

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

Installation of enclosure and additional dumpsters in parking lot for cardboard products.
SEE ATTACHED RIDER A.

NEEDHAM GATEWAY, LLC

Signature of Applicant (or representative) BY: Michael Moskowitz
Address if not applicant _____
Telephone # 781-910-7933
Owner's permission if other than applicant Elizabeth Berejik

Trustee of BMI Realty Trust

SUMMARY OF PLANNING BOARD ACTION

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

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

RIDER A

TO APPLICATION FOR AMENDMENT TO SPECIAL PERMIT NO. 2005-07

Reference is made to the Major Project Site Plan Special Permit No. 2005-07 issued to Needham Gateway, LLC (the "Applicant") on January 24, 2006 as amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021 (collectively, the "Special Permit") with respect to a parcel of land containing approximately 82,581 square feet (the "Land") known as and numbered 100 and 120 Highland Avenue, Needham, MA. Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Special Permit.

Pursuant to the Special Permit, Applicant has completed construction of two buildings on the Land, one located at 100 Highland Avenue containing 10,628 square feet of floor area and the other located at 120 Highland Avenue containing 12,820 square feet of floor area (both buildings, together with all other improvements on the Land are herein collectively referred to as the "Shopping Center"). Pursuant to Section 7.4 of the Zoning By-Law and Section 4.2 of Special Permit a modification to the exterior of site requires approval of the Planning Board.

The Special Permit approved the installation of a single six-foot high outdoor dumpster enclosure near the center of the parking lot serving the Shopping Center as shown on the approved Site Plan. Over time it has become apparent that the volume of trash (both non-organics and organics) has overwhelmed the single dumpster requiring an inordinate number of visits by the trash disposal contractor. As a result, the Applicant desires to install an enclosure for the measuring approximately 9' x 21' with a height of 6' (the "Enclosure") to contain up to three additional dumpsters (the "Additional Dumpsters") for cardboard products only (i.e. no organics), located along the rear of the Shopping Center parking lot in the approximate location shown on the Site Plan submitted with this application. The addition of the Additional Dumpsters will result in fewer required visits by the trash contractor and will facilitate the maintenance of a clean, vermin free and environmentally responsible shopping center operation.

To ensure proper utilization of the Additional Dumpsters, Applicant has adopted a regulation applicable to all tenants of the Shopping Center prohibiting the use of the Additional Dumpsters for anything except the disposal of cardboard products. Additionally, the contract with the trash disposal contractor prohibits the use of the Additional Dumpsters for anything except the disposal of cardboard products.

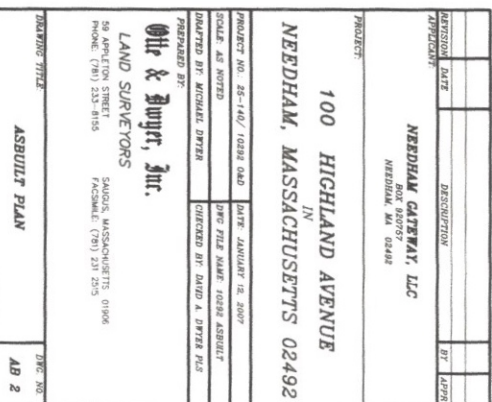
The Enclosure will be comprised of the same PVC materials as previously approved for the fence that abuts the property behind the Highland Terrace parcels.

The addition of the Enclosure will eliminate one of the existing parking spaces thereby reducing the total parking spaces for the Center from 97 to 96. As a result of this reduction the Applicant hereby requests that Special Permit be further amended by the issuance of a special permit pursuant to Section 5.1.1.5 of the Zoning By-Law modifying the existing parking waiver to allow only 96 parking spaces for the Center and confirming the existing waiver in the Special Permit as to the requirements of Section 5.1.3 of the Zoning By-Law as to said spaces.

The Applicant further requests approval by the Planning Board of the installation and maintenance of the Enclosure and the Additional Dumpsters as a modification to the Special Permit as required by Section 7.4 of the Zoning By-Law and Section 4.2 of Special Permit.

To the extent any other provisions of the Zoning By-Law require the granting of any other relief to allow the installation and maintenance of the Enclosure and the Additional Dumpsters, such additional relief is hereby requested by the Applicant.

The Applicant hereby requests that the relief requested in this application run with the Land.



**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

VIA EMAIL

February 28, 2022

Town of Needham

Planning Board

c/o Planning Department

50 Dedham Avenue

Needham, MA 02492

Attn: Lee Newman, Director

Re: Supplement to Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 For Property at 100-120 Highland Avenue, Needham, MA (the "Center") to Allow for Additional Dumpsters

Dear Board Members:

Reference is made to the Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 filed with the Planning Board by Needham Gateway, LLC ("Applicant") seeking, among other relief, the approval of an additional dumpster enclosure and dumpsters for the Center (the "Additional Dumpsters Application").

Attached please find the following items submitted as a supplement to the Additional Dumpsters Application:

1. Letter from BSC Group dated February 28, 2022 updating November 19, 2021 previous Parking Evaluation; and
2. GPS Area Photo showing properties abutting Needham Gateway Center.

Thank you for your cooperation in this matter.

Very truly yours,



Richard S. Mann, Esq.
On Behalf of Co-Applicants

cc: Michael Moskowitz

FEBRUARY 28, 2022

The Law Office of Richard S. Mann
Attn: Rick Mann
845 Washington Street
Newton, MA 02460
RE: 100 Highland Avenue, Needham, MA

Dear Mr. Mann,

The BSC Group understands that at the February 15, 2022 meeting of the Needham Planning Board, the proposed site plan was modified to reduce the total existing number of parking spaces by one, to allow the relocation of an existing dumpster enclosure. This reduction of one parking space reduces the total number of existing parking from 97 spaces to 96 spaces.

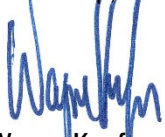
We have reviewed our Parking Evaluation memorandum for the project site dated November 19, 2021 to assess whether this reduction of parking impacts the conclusions of our memorandum.

The Parking Evaluation memorandum evaluates the existing and future parking demand using a three-step process. The steps included; conduct a parking study to determine the existing parking demand on the site, collect customer/pedestrian data for the uses to be replaced and estimate the parking demand for the new uses based on available industry data and anticipated operational information. This evaluation lead to a peak existing occupancy of 61 total spaces and an expected peak demand with the proposed change of uses of 96, which occurs between 1:00 pm and 2:00 pm on a weekday.

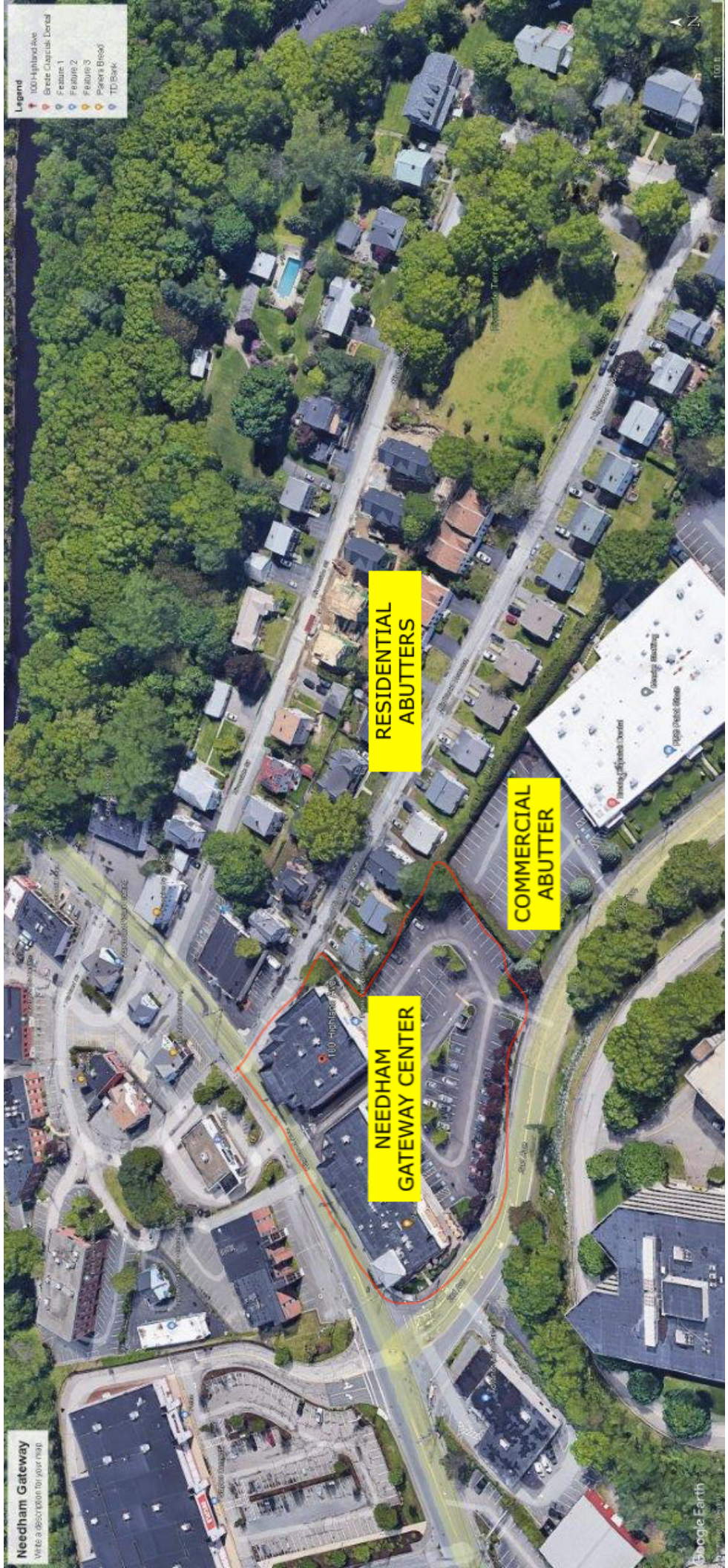
We conclude that the reduction of one existing parking space to a total available parking count of 96 will accommodate the expected peak demand of the proposed change of uses.

Sincerely,

BSC Group, Inc.



Wayne Keefner, PE, PTOE, LEED AP
Senior Project Engineer



Needham Gateway
We're a description for your map.

- Legend**
- 100 Highland Ave
 - Brate Classical Dental
 - Feature 1
 - Feature 2
 - Feature 3
 - Parent's Road
 - TD Bank

**RESIDENTIAL
ABUTTERS**

**COMMERCIAL
ABUTTER**

**NEEDHAM
GATEWAY CENTER**

From: [Lee Newman](#)
To: [Alexandra Cies](#)
Subject: FW: Needham gateway
Date: Wednesday, March 9, 2022 3:27:07 PM

From: Mike Moskowitz <mike@eclipsegmt.com>
Sent: Wednesday, March 9, 2022 1:12 PM
To: Lee Newman <LNewman@needhamma.gov>
Cc: Mann Rick <rmann@rickmannlaw.com>
Subject: Needham gateway

The wood that was used to secure the repair of the fence abutting John Negoshian's property has been painted. Contrary to Johns comment at the last public hearing, the wood is on both sides of the fence - the side facing Johns property and the side facing my property





From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: Dumpster 100-120 Highland Ave.
Date: Friday, February 18, 2022 4:05:24 PM

From: David Roche <droche@needhamma.gov>
Sent: Friday, February 18, 2022 11:49 AM
To: Lee Newman <LNewman@needhamma.gov>
Subject: Dumpster 100-120 Highland Ave.

Lee,

I understand that there was a lengthy conversation about the new dumpster location located at 100-120 Highland Ave at the Planning Board meeting this week. As a point of clarification I did receive a phone call from Mr. Moskowitz's attorney shortly after my letter was sent out and we did have a conversation about compliance with the site plan. They agreed to fix the fence as soon as they could get someone out to repair it and because they were willing with out argument to apply for an amendment to the site plan, I agreed to allow them to leave the dumpster until a decision was rendered by the Board. I probably should have sent a follow up letter explaining that agreement, but when I send out a letter I am really looking for a response which they did.

Dave



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

March 10, 2022

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

RE: Amendment to Major Project Special Permit No. 2005-07
100-120 Highland Avenue- Needham Gateway

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced request Amendment to a Special Permit. The applicant requests this modification to add an outdoor dumpster enclosure as shown on the plans for carboard products only. The proposed enclosure location is revised from the previous existing location adjacent to the walkway and building rear of the property.

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

1. Application for the Amendment to 2005-07 and attached Rider A.
2. As-Built plan of the site dated January 12, 2007 with the added requested dumpster location.
3. Parking evaluation letter dated February 28, 2022 and attached satellite photo of site.

Our comments and recommendations are as follows:

- We have no comment or objection to the proposed Modification.

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

Truly yours,

Thomas Ryder
Acting Town Engineer

From: [John Schlittler](#)
To: [Alexandra Clee](#)
Subject: RE: Request for QUICK comment - Needham Gateway - relocation of dumpsters
Date: Thursday, March 10, 2022 2:44:18 PM

Police has no issues

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Thursday, March 10, 2022 1:34 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcDonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for QUICK comment - Needham Gateway - relocation of dumpsters

Dear all,

I missed an application that I am seeking comment on for this Tuesday's Planning Board meeting (March 15). Apologies! If you have a chance to review and send comments before the meeting, I would be appreciative.

Previously the applicant had requested to place the cardboard dumpsters next to the building (where they were already installed, but never approved). Neighbors did not favor that location, so the Applicant re-submitted an application for placing the cardboard dumpster in a different location at the opposite end of the parking lot.

The Planning Board has scheduled this matter for March 15, 2022. Please send your comments as soon as you are able (and again, apologies for sending the request so late!).

The documents attached for your review are as follows:

1. Application for the Amendment to 2005-07 and attached Rider A.
2. As-Built plan of the site dated January 12, 2007 showing the requested dumpster location.
3. Parking evaluation letter dated February 28, 2022 and attached satellite photo of site.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: Alexandra Clee

Sent: Friday, January 21, 2022 4:52 PM

To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

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

Subject: Request for comment - Needham Gateway - addition of dumpsters

Dear all,

We have received the attached application materials for the addition of dumpsters on the site. More information can be found in the attachments. The additional location of the dumpsters is already installed but was not part of the approved site plan.

The Planning Board has scheduled this matter for February 15, 2022. Please send your comments by Wednesday February 9, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for the Amendment to 2005-07 and attached Rider A.
2. As-Built plan of the site dated January 12, 2007 with addition of requested dumpster location.
3. Photos of the existing but not approved dumpster location.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Dennis Condon](#)
To: [Alexandra Clee](#)
Subject: RE: Request for QUICK comment - Needham Gateway - relocation of dumpsters
Date: Thursday, March 10, 2022 4:43:50 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Alex,
The Fire Dept. is okay with this plan.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



From: Alexandra Clee <aclee@needhamma.gov>
Sent: Thursday, March 10, 2022 1:34 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
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(where they were already installed, but never approved). Neighbors did not favor that location, so the Applicant re-submitted an application for placing the cardboard dumpster in a different location at the opposite end of the parking lot.

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Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: Alexandra Clee

Sent: Friday, January 21, 2022 4:52 PM

To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

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

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3. Photos of the existing but not approved dumpster location.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Tara Gurge](#)
To: [Alexandra Clee](#)
Subject: RE: Request for QUICK comment - Needham Gateway - relocation of dumpsters
Date: Friday, March 11, 2022 9:55:03 AM
Attachments: [image002.png](#)
[image003.png](#)

Alex –

The Public Health Division reviewed the request for this Needham Gateway project at 100-120 Highland Avenue to relocate the recycling dumpsters and we have no additional comments to share at this time.

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

Thanks,



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



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Sent: Thursday, March 10, 2022 1:34 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
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The documents attached for your review are as follows:

1. Application for the Amendment to 2005-07 and attached Rider A.
2. As-Built plan of the site dated January 12, 2007 showing the requested dumpster location.
3. Parking evaluation letter dated February 28, 2022 and attached satellite photo of site.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: Alexandra Clee

Sent: Friday, January 21, 2022 4:52 PM

To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

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

Subject: Request for comment - Needham Gateway - addition of dumpsters

Dear all,

We have received the attached application materials for the addition of dumpsters on the site. More

information can be found in the attachments. The additional location of the dumpsters is already installed but was not part of the approved site plan.

The Planning Board has scheduled this matter for February 15, 2022. Please send your comments by Wednesday February 9, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for the Amendment to 2005-07 and attached Rider A.
2. As-Built plan of the site dated January 12, 2007 with addition of requested dumpster location.
3. Photos of the existing but not approved dumpster location.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

Alexandra Clee

From: Derek W <derekw713@gmail.com>
Sent: Wednesday, February 23, 2022 12:45 PM
To: Planning
Subject: Needham Gateway LLC

Good Afternoon Planning Board,

I wanted to raise to your attention a concern I have with the site plan that very clearly and intentionally omits the residential properties on the other side of the fence.

I understand and appreciate the desire of the landlord to secure tenants, but this is a unique parcel that abuts a dense residential neighborhood.

While I am no expert on the rules and regulations, one suggestion I have would be to install a fence/barrier that has better soundproofing (like the kind they use on highways).

<https://www.needhamma.gov/ArchiveCenter/ViewFile/Item/9363>



Thanks,

Derek Wade
41 Riverside Street

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: Fwd: March 15 PB Meeting - DUMPSTERS
Date: Tuesday, March 15, 2022 10:34:03 AM

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

From: Elizabeth Kaponya <liz.kaponya@gmail.com>
Sent: Monday, March 14, 2022 10:08:16 PM
To: Lee Newman <LNewman@needhamma.gov>
Subject: March 15 PB Meeting - DUMPSTERS

Hi Lee and Planning Board Members,

Residents are in agreement that it is best that All Dumpsters are to be grouped together at the pre-existing Dumpster Center Island of the Panera Gateway Shopping Center. Due to the fact that it is such a Noisy and Protracted procedure to service the dumpsters - we request that No Dumpster Servicing occurs on Weekends or Holidays - and not before 9am.

I thought it was agreed to at our last PB Meeting that Construction Dumpsters would Not be placed next to the Residences on Highland Terrace. Unfortunately this was not the case, as last Friday a Construction Dumpster was placed next to our homes. Please regulate that Construction Dumpsters be placed as far away from residences as possible, and subject to the same hours of operation as regular dumpsters.

Due to continual Dumpster and Trash issues - our homes along the whole length of Highland Terrace are impacted with stray garbage - photo of last Friday with a Panera beverage cup with Comdoms...

Thank you for your consideration,

Elizabeth Kaponya
27 Highland Terrace
Needham, MA 02494
TMM "J"

Thank You for your consideration,
Elizabeth Kaponya
27 Highland Terrace
Needham, MA 02494
781-455-9967
TMM "J"









**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

VIA EMAIL

February 22, 2022
Town of Needham
Planning Board
c/o Planning Department
50 Dedham Avenue
Needham, MA 02492
Attn: Lee Newman, Director

Re: Withdrawal of CNC Golf, LLC (DBA "X-Golf") Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 For Property at 100-120 Highland Avenue, Needham, MA (the "Center")

Dear Board Members:

Reference is made to the Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 filed with the Planning Board by Needham Gateway, LLC and CNC Golf, LLC (together, the "Co-Applicants") seeking, among other relief, the approval of an indoor golf facility as an "indoor athletic or exercise" facility under the Needham Zoning By-Law along with accessory uses thereto and a parking waiver (the "X-Golf Application").

The prospective tenant (and co-applicant), CNC Golf LLC, has decided not to proceed with the indoor golf facility at 100 Highland Avenue. Accordingly, on behalf of CNC Golf LLC and Needham Gateway, LLC, the co-applicants, the X-Golf Application is hereby withdrawn, without prejudice.

To the extent possible, it would be appreciated if the application fee could be refunded.

Please accept my apologies for any inconvenience caused by this withdrawal.

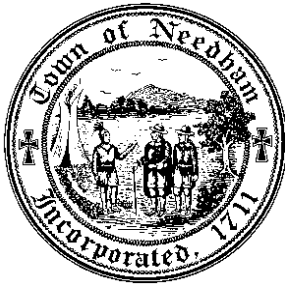
Very truly yours,



Richard S. Mann, Esq.

On Behalf of Co-Applicants

cc: Michael Moskowitz
Attorney Elizabeth Lashway



PLANNING DIVISION
Planning & Community Development

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.11; the Needham Zoning By-Laws, Sections 7.4, 3.2.5.2 (o), 3.2.5.2 (s), 5.1.1.5, 5.1.2, 5.1.3 and Section 4.2 of Special Permit 2005-07 (as amended, the “Decision”), the Needham Planning Board will hold a public hearing on Tuesday, March 15, 2022 at 7:30 p.m. by Zoom Web ID Number 826-5899-3198 (further instructions for accessing are below) regarding the application of CNC Golf LLC, 113 Everett Street, Concord, MA, and the Needham Gateway LLC, 66 Cranberry Lane, Needham, MA, for issuance of a Major Project Site Plan Special Permit amendment to the Decision including under Site Plan Review, Section 7.4 of the Needham Zoning By-Law.

The subject property is located at 100 and 120 Highland Avenue, Needham, Massachusetts, shown on Assessor’s Map No. 73 as Parcel 18 containing approximately 82,582 square feet and is partially located in the New England Business Center Zoning District and partially located in the Highland-Commercial 128 Zoning District. The requested Site Plan Special Permit amendment would, if granted, amend the Decision to allow a new principal use described as an indoor athletic facility providing computer simulated golf activities in the building containing 10,628 square feet at 100 Highland Avenue, together with accessory uses including food and beverage service for on-premises consumption and golf-club sales and fitting services. The requested Site Plan Special Permit amendment would also, if granted, further amend the Decision to waive any additional off-street parking spaces required under Section 5.1.2 and Section 5.1.3 of the Zoning By-Law based on the proposed new use.

In accordance with the Zoning By-Law, Section 7.4, and Section 4.2 of the Decision, an amendment to the Decision is required. In accordance with Section 3.2.5.2 (o) of the Zoning By-Law, a special permit is required for an indoor athletic or exercise facility in the Highland-Commercial 128 Zoning District. In accordance with Section 3.2.5.2 (s) of the Zoning By-Law, a special permit is required for uses accessory thereto, including the sale of food and beverages, golf-club sales and fitting services. In accordance with the Zoning By-Law, Section 5.1.1.5, a Special Permit is required to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the Zoning By-Law related to the proposed new use.

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

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

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

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

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

The application may be viewed at this link:

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

NEEDHAM PLANNING BOARD

Needham Times, February 24, 2022 and March 3, 2022.

**TOWN OF NEEDHAM
MASSACHUSETTS**

2022 FEB -1 AM 11:27



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

PLANNING BOARD

**FURTHER
APPLICATION FOR/SITE PLAN REVIEW**

Project Determination: (circle one)

Major Project

Minor Project

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

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

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

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

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

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

Indoor Athletic Facility (Golf Simulation and Accessory Uses)
SEE ATTACHED RIDER A.

NEEDHAM GATEWAY, LLC

Signature of Applicant (or representative)

BY:

Michael Moskowitz

Address if not applicant

MANAGER

Telephone # 781-910-7933

Owner's permission if other than applicant

Elizabeth Berejik

Trustee of BMI Realty Trust

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board [Signature] Date 1/28/22
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

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

RIDER A

TO APPLICATION FOR AMENDMENT TO SPECIAL PERMIT NO. 2005-07

Reference is made to the Major Project Site Plan Special Permit No. 2005-07 issued to Needham Gateway, LLC (the "Applicant") on January 24, 2006 as amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021 (collectively, the "Special Permit") with respect to a parcel of land containing approximately 82,581 square feet (the "Land") known as and numbered 100 and 120 Highland Avenue, Needham, MA. Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Special Permit.

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

Section 3.2 of the Special Permit, allows the use of 10,628 square feet of the building at 100 Highland Avenue and 8,020 square feet of the building at 120 Highland Avenue for general retail purposes and craft, consumer, professional or commercial service establishments dealing directly with the general public and 4,800 square feet of said building for a fast food restaurant. Further, although otherwise allowed as of right or by special permit in the underlying Highland Commercial-128 Zoning District, Section 3.3 of the Special Permit as amended expressly prohibits the following uses in the Shopping Center: (1) all sit down food and beverage restaurants; (2) all fast food pick up and/or delivery restaurants, excepting Panera Bread; (3) all sports clubs; and (4) all convenience markets.

1. Proposed Use:

The Applicant proposes to lease the entire building at 100 Highland Avenue, containing approximately 10,628 square feet, to CNC Golf LLC (or its affiliate) d/b/a "X-Golf" who will use the premises principally as an indoor golf facility utilizing innovative computer technology to simulate an outdoor golf experience in up to eight golf simulation booths. The facility will offer individual instruction, clinics, and individual, group, league and tournament play. Accessory uses will include golf club sales and fitting services and an offering of food and beverages (including alcoholic beverages) intended for on-premises, indoor consumption only, principally by golf participants to be served at tables and seating areas located approximately as shown on the floor plan submitted with this application. As shown on said floor plan, thirty-two (32) of the seats within the facility will be located adjacent to the individual golf simulator booths, sixteen (16) seats will be located in the entry/lobby area and eight (8) seats will be located at the bar. There will be no outdoor seating. The proposed premises space layout is set forth in the Floor Plan submitted with this Application. The layout is subject to change provided that no such change will increase the square footage of the premises.

Anticipated hours of operation will be 9 am-10 pm M-Th, 8 am-11 pm Fri-Sat, 8 am-9 pm Sun, all subject to modification. Generally, no more than five (5) full-time employees are expected on the largest shift.

Although walk-ins will be allowed, most individual and group customers will pre-book by appointment. League play will be limited to week nights. Weekends will be principally open play by individuals and groups, while utilization on weekday mornings and afternoons will be principally comprised of lessons and clinics. Based on the experience of X-Golf's facility in Wayland, utilization is expected to be highly seasonal with summer months (June-September) being the slowest and winter months (December-March) being the busiest.

2. Determination of Use Category:

The Applicant believes that the principal use properly fits within the definition of a "...consumer or commercial service establishment dealing directly with the general public" which is permitted as a matter of right in the Highland Commercial-128 Zoning District pursuant to Section 3.2.5.1 (e) of the Zoning By-Law. It would follow that the accessory food, beverage and golf-club fitting uses are allowed as a matter of right pursuant to Section 3.2.5.1 (i) of the Zoning By-Law as they are "other customary and proper accessory uses incidental to lawful principal uses."

However, the Planning Department has determined that the principal use is more appropriately characterized as an "indoor athletic or exercise" facility which is allowed by special permit pursuant to Section 3.2.5.2 (o) of the Zoning By-Law, along with the proposed food, beverage and golf-club fitting uses, pursuant to Section 3.2.5.2 (s) of the Zoning By-Law. While reserving its argument to the contrary, for purposes of this Application the Applicant acquiesces to the Planning Department's determination and hereby requests that the Planning Board amend the Special Permit by granting a special permit allowing the proposed primary use pursuant to Section 3.2.5.2 (o) of the Zoning By-Law and further allowing the aforesaid food, beverage and golf-club fitting uses as accessory uses pursuant to Section 3.2.5.2 (s).

For the elimination of doubt, the Applicant also requests that the Planning Board expressly find that the proposed use does not constitute a "sports club" and that the proposed accessory food and beverage restaurant use does not violate the prohibition against "sit down food and beverage restaurants" as contained in Section 3.3 of the Special Permit.

3. Parking Waiver:

The Special Permit contains a waiver of the off-street parking requirements under Sections 5.1.2 and 5.1.3 of the Zoning By-Law, reducing the number of spaces required from 127 to 97. The proposed use by X-Golf will replace the current retail use by F.W. Webb of the entire 10,628 square foot building at 100 Highland Avenue. Parking is currently required for the F.W. Webb retail use at the rate of one space per 300 square feet of floor area for a total of thirty-six (36) required parking spaces.

Based on the characterization of the proposed principal use as an "indoor athletic facility," one parking space per 150 square feet of floor area ($10,628/150=71$ spaces) and one space for each

three employees to be employed or anticipated to be employed on the largest shift (5 employees/3=2 spaces) will be required pursuant to Section 5.1.2 of the Zoning By-Law, for a total of 73 required parking spaces. Further, to the extent that the Planning Board finds that the accessory food and beverage service constitutes a restaurant use requiring one parking space per food and beverage seat, and assuming further that all twenty-four (24) of the seats in the bar, entry/lobby area are considered to be food and beverage seats, an additional twenty-four (24) parking spaces will be required under Section 5.1.2 (9).

Based on the foregoing, the proposed use will require a total of ninety-seven (97) parking spaces versus the thirty-six (36) parking spaces required for the existing retail use (an increase of sixty-one (61) parking spaces).

The Applicant hereby requests that the Planning Board amend the Special Permit by the issuance of a special permit pursuant to Section 5.1.1.5 of the Zoning By-Law waiving the sixty-one (61) parking space increase calculated as aforesaid and confirming or reissuing the existing waiver as to the requirements of Sections 5.1.2 and 5.1.3 of the Zoning By-Law.

In support of its request for the issuance of the above waiver, the Applicant has submitted with this application a Parking Study dated November 19, 2021, prepared by BSC Group, Inc. which demonstrates that the proposed use by X-Golf does not warrant the number of parking spaces required by Section 5.1.2 and that existing 97 parking spaces are sufficient to accommodate all existing and proposed uses in the Shopping Center. The Applicant also notes that the use category most closely parallels the actual utilization capacity of the proposed use is found in Section 5.1.2 (11) which requires only four (4) parking spaces per bowling alley or tennis or racquetball court. As is the case with said uses, the number of parking spaces required for the proposed use is more appropriately linked to the number golf simulation booths than to square footage. Based on the foregoing, only fifty-six (56) parking spaces would be required for the proposed use (8 spaces/simulator = 32, plus 24 spaces for the food and beverage related seats), a difference of only twenty (20) spaces over the number of spaces required for the existing use.

To the extent any other provisions of the Zoning By-Law require the granting of a special permit, waiver or an amendment to the existing Special Permit in order to allow the proposed use by X-Golf, such special permit, waiver and/or amendment is hereby requested by the Applicant.

The Applicant hereby requests that the relief requested in this application run with Land.

**TOWN OF NEEDHAM
MASSACHUSETTS**



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

PLANNING BOARD

**FURTHER
APPLICATION FOR SITE PLAN REVIEW**

Project Determination: (circle one) Major Project Minor Project

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

Location of Property 100 and 120 HIGHLAND AVENUE, NEEDHAM, MA
Name of Applicants NEEDHAM GATEWAY, LLC and CNC Golf, LLC (or nominee)
Applicant's Address 66 Cranberry Lane, Needham, MA 02492 113 Everett Street
Phone Number 781-910-7933 Concord, MA 01742
Tel. No.: 781-258-9674

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

Property Owner's Name BMI REALTY TRUST
Property Owner's Address 26 Pine Tree Drive, Buzzards Bay, MA 02532
Telephone Number 617-482-9119

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

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

Indoor Athletic Facility (Golf Simulation and Accessory Uses)
SEE ATTACHED RIDER A.

Signature of Applicant (or representative) BY: Michael Moskowitz CNC Golf, LLC
Address if not applicant _____ Title: Manager
Telephone # 781-910-7933 Elizabeth Berejik Tel No.: 781-258-9674
Owner's permission if other than applicant _____
Trustee of BMI Realty Trust

SUMMARY OF PLANNING BOARD ACTION

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

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

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

VIA EMAIL

February 18, 2022
Town of Needham
Planning Board
c/o Planning Department
50 Dedham Avenue
Needham, MA 02492
Attn: Lee Newman, Director

Re: Modification to Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 For Property at 100-120 Highland Avenue, Needham, MA (the "Center")

Dear Board Members:

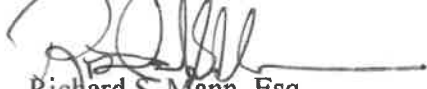
Reference is made to the Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 filed with the Planning Board by Needham Gateway, LLC and CNG Golf, LLC (or nominee) (together, the "Co-Applicants") seeking, among other relief, the approval of an indoor golf facility as an "indoor athletic or exercise" facility under the Needham Zoning By-Law along with accessory uses thereto and a parking waiver (the "X-Golf Application"). Wherever the term "Applicant" is used in the X-Golf Application it shall be deemed to mean the Co-Applicants unless the context requires otherwise.

The analysis utilized to determine the extent of the parking waiver requested in the X-Golf Application was based on the assumed continued existence of 97 parking spaces for the Center. Needham Gateway, LLC has recently proposed the addition of a new dumpster enclosure in the Center's parking lot containing three additional dumpsters for disposal of cardboard products only. The location of the proposed enclosure will eliminate one of the existing 97 parking spaces serving the Center serving the Center, leaving 96 spaces to serve the Center.

Based on this assumed reduction, the Co-Applicants hereby modify the X-Golf Application to request the same waiver as initially requested in the original X-Golf Application, but based on the assumption of 96 parking spaces versus 97 parking spaces being provided at the Center. A revised Parking Study by BSC Group will be submitted to the Planning Board prior to the hearing date which will analyze the effect of this parking space reduction on the original conclusions contained in BSC Group's Parking Study.

Thank you for your cooperation in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'R. Mann', with a long horizontal flourish extending to the right.

Richard S. Mann, Esq.
On Behalf of Co-Applicants

cc: Michael Moskowitz
Attorney Elizabeth Lashway

From: [Dennis Condon](#)
To: [Alexandra Clee](#)
Subject: RE: Request for comment - Needham Gateway - X Golf
Date: Tuesday, February 8, 2022 4:38:07 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Alex,
The Fire dept. is ok with this project.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, February 8, 2022 4:01 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Needham Gateway - X Golf

Re: **X-Golf** Tenant (there is another application at same location for a separate tenant, being sent by separate email)

Dear all,

We have received the attached application materials for the proposal to lease the entire building at

100 Highland Avenue, containing approximately 10,628 square feet, to CNC Golf LLC (or its affiliate) d/b/a "X-Golf" who will use the premises principally as an indoor golf facility utilizing innovative computer technology to simulate an outdoor golf experience in up to eight golf simulation booths. Accessory uses will include golf club sales and fitting services and an offering of food and beverages (including alcoholic beverages) intended for on-premises, indoor consumption only, principally by golf participants to be served at tables and seating areas. More information can be found in the attachments.

The Planning Board has scheduled this matter for March 15, 2022. Please send your comments by Wednesday March 9, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2005-07, with Rider A.
2. Letter from Attorney Rick S. Mann, dated January 27, 2022.
3. Memorandum from Michael A. Santos, BSC, Group, re: Parking Evaluation, dated November 19, 2021.
4. Floor Plan entitled "X Golf, 100 Highland Ave, Needham, MA 02494," Sheet A101, entitled "Architectural Floor Plan," prepared by Retail Design Consultants, LLC, dated January 25, 2022.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Tara Gurge](#)
To: [Alexandra Clee](#)
Subject: FW: Request for comment - Needham Gateway - X Golf
Date: Thursday, February 10, 2022 11:30:42 AM
Attachments: [Transmittal Letter and Application X-Golf.pdf](#)
[parking study 100-120 highland ave 11.21.pdf](#)
[Final Floor Plan for X Golf .pdf](#)
[image002.png](#)
[image003.png](#)

Hello Alex –

Here are the Public Health Division comments for the proposed X-Golf Tenant to be located at 100-120 Highland Avenue. See Below:

- If any retail/food prep areas proposed in this newly renovated facility would need a food permit and an online Food Permit Plan Review Application, along with a proposed food prep area design plan, will need to be submitted and reviewed and approved by the Public Health Division prior to start of construction. Here is the direct link to the online Food Plan Review Permit application - <https://needhamma.viewpointcloud.com/categories/1073/record-types/1006516> .
- Please keep in mind, if a food service permit is issued, as part of our approval, a sufficient space must be made available in the parking lot **for both** a solid waste (trash) dumpster and a separate recycling dumpster, along with waste oil/grease containment (if applicable.) These dumpsters must be placed in an easily accessible area outside the facility, close to the food prep areas.

Please let us know if you need additional information or have any follow-up questions on those requirements.

Thanks,



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



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(or authorized to receive information for the recipient), please contact the sender by reply e-mail and delete all copies of this message. Thank you.



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

From: Alexandra Clee <aclee@needhamma.gov>

Sent: Tuesday, February 8, 2022 4:01 PM

To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcDonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

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

Subject: Request for comment - Needham Gateway - X Golf

Re: **X-Golf** Tenant (there is another application at same location for a separate tenant, being sent by separate email)

Dear all,

We have received the attached application materials for the proposal to lease the entire building at 100 Highland Avenue, containing approximately 10,628 square feet, to CNC Golf LLC (or its affiliate) d/b/a "X-Golf" who will use the premises principally as an indoor golf facility utilizing innovative computer technology to simulate an outdoor golf experience in up to eight golf simulation booths. Accessory uses will include golf club sales and fitting services and an offering of food and beverages (including alcoholic beverages) intended for on-premises, indoor consumption only, principally by golf participants to be served at tables and seating areas. More information can be found in the attachments.

The Planning Board has scheduled this matter for March 15, 2022. Please send your comments by Wednesday March 9, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2005-07, with Rider A.
2. Letter from Attorney Rick S. Mann, dated January 27, 2022.
3. Memorandum from Michael A. Santos, BSC, Group, re: Parking Evaluation, dated November 19, 2021.
4. Floor Plan entitled "X Golf, 100 Highland Ave, Needham, MA 02494," Sheet A101, entitled "Architectural Floor Plan," prepared by Retail Design Consultants, LLC, dated January 25, 2022.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [John Schlittler](#)
To: [Alexandra Clee](#)
Subject: RE: Request for comment - Needham Gateway - X Golf
Date: Wednesday, February 9, 2022 2:20:23 PM

Police has no issue thanks

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Tuesday, February 8, 2022 4:01 PM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcDonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Needham Gateway - X Golf

Re: **X-Golf** Tenant (there is another application at same location for a separate tenant, being sent by separate email)

Dear all,

We have received the attached application materials for the proposal to lease the entire building at 100 Highland Avenue, containing approximately 10,628 square feet, to CNC Golf LLC (or its affiliate) d/b/a "X-Golf" who will use the premises principally as an indoor golf facility utilizing innovative computer technology to simulate an outdoor golf experience in up to eight golf simulation booths. Accessory uses will include golf club sales and fitting services and an offering of food and beverages (including alcoholic beverages) intended for on-premises, indoor consumption only, principally by golf participants to be served at tables and seating areas. More information can be found in the attachments.

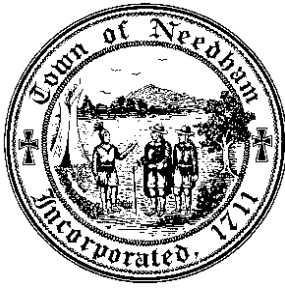
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Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov



PLANNING DIVISION
Planning & Community Development

LEGAL NOTICE
Planning Board
TOWN OF NEEDHAM
NOTICE OF HEARING

In accordance with the provisions of M.G.L., Chapter 40A, S.11; the Needham Zoning By-Laws, Sections 7.4, 5.1.1.5, 5.1.2, 5.1.3, and Section 4.2 of Special Permit 2005-07 (as amended, the “Decision”), the Needham Planning Board will hold a public hearing on Tuesday, March 15, 2022 at 7:40 p.m. by Zoom Web ID Number 826-5899-3198 (further instructions for accessing are below) regarding the application of Carbon Health Medical Group of Florida, PA, 300 California St (Suite 700), San Francisco CA, and the Needham Gateway LLC, 66 Cranberry Lane, Needham, MA, for issuance of a Major Project Site Plan Special Permit amendment to the Decision including under Site Plan Review, Section 7.4 of the Needham Zoning By-Law.

The subject property is located at 100 and 120 Highland Avenue, Needham, Massachusetts, shown on Assessor’s Map No. 73 as Parcel 18 containing 82,582 square feet and is partially located in the New England Business Center Zoning District and partially located in the Highland-Commercial 128 Zoning District. The requested Site Plan Special Permit amendment would, if granted, allow a new principal use in the subject property, described as a medical professional office providing primary and walk-in medical care and uses accessory thereto, which use is allowed as a matter of right in the Highland-Commercial 128 Zoning District.

In accordance with the Zoning By-Law, Section 7.4 and Section 4.2 of the Decision, a Site Plan Special Permit amendment is required. In accordance with the Zoning By-Law, Section 5.1.1.5, a Special Permit is required to waive strict adherence with the requirements of Sections 5.1.2 and 5.1.3 of the Zoning By-Law related to the proposed new use.

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

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

**Or to Listen by Telephone: Dial (for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 9128 or
+1 253 215 8782 Then enter ID: 826-5899-3198**

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

The application may be viewed at this link:

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

NEEDHAM PLANNING BOARD

Needham Times, February 24, 2022 and March 3, 2022.

TOWN OF NEEDHAM
MASSACHUSETTS

RECEIVED
JAN 25 PM 1:35



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

PLANNING BOARD

**FURTHER
APPLICATION FOR/SITE PLAN REVIEW**

Project Determination: (circle one) Major Project Minor Project

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

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

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

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

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

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

Professional Office (Medical)
SEE ATTACHED RIDER A.

NEEDHAM GATEWAY, LLC

Signature of Applicant (or representative) BY: Michael Moskowitz
Address if not applicant MANAGER
Telephone # 781-910-7933
Owner's permission if other than applicant Elizabeth Berejick

Trustee of BMI Realty Trust

SUMMARY OF PLANNING BOARD ACTION

Received by Planning Board Adm. H. H. H. Date 1/25/22
Hearing Date _____ Parties of Interest Notified of Public Hearing _____
Decision Required by _____ Decision/Notices of Decision sent _____
Granted _____
Denied _____ Fee Paid _____ Fee Waived _____
Withdrawn _____

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

SIGNATURE CERTIFICATE



REFERENCE NUMBER

F69274D1-6D7E-46C5-9C8E-5AF992C108A5

TRANSACTION DETAILS

Reference Number

F69274D1-6D7E-46C5-9C8E-5AF992C108A5

Transaction Type

Signature Request

Sent At

01/10/2022 10:45 EST

Executed At

01/10/2022 11:44 EST

Identity Method

email

Distribution Method

email

Signed Checksum

c5b0f6618dbddd8820d74d6cb430d7157528b1dd63008f6db98f5be28e94cb9e

Signer Sequencing

Disabled

Document Passcode

Disabled

DOCUMENT DETAILS

Document Name

Ng Special Permit

Filename

ng_special_permit.pdf

Pages

1 page

Content Type

application/pdf

File Size

250 KB

Original Checksum

799f7280cf7547ae7fd7a67bb3a4d988bbf8044e5763e5cd79b088acfd396d9

SIGNERS

SIGNER

Name

Mike Moskowitz

Email

mike@eclipsegmt.com

Components

1

E-SIGNATURE

Status

signed

Multi-factor Digital Fingerprint Checksum

5452dad08b3971b9041e882ca081e48c6a072897ea02b7b141e77a8216e7a0cc

IP Address

104.251.140.108

Device

Chrome via Windows

Typed Signature

Michael Moskowitz

Signature Reference ID

F0513D26

EVENTS

Viewed At

01/10/2022 11:44 EST

Identity Authenticated At

01/10/2022 11:44 EST

Signed At

01/10/2022 11:44 EST

Name

Betty Ann Berejik

Email

berejikmotors@aol.com

Components

1

Status

signed

Multi-factor Digital Fingerprint Checksum

0e49a17b9dff58a7fd5c3a2ed2ed6c91f32e4ba290ee7b63faa2fd280097c04c

IP Address

98.238.63.154

Device

Chrome via Windows

Typed Signature

Elizabeth Berejik

Signature Reference ID

FA9C52CD

Viewed At

01/10/2022 11:28 EST

Identity Authenticated At

01/10/2022 11:29 EST

Signed At

01/10/2022 11:29 EST

AUDITS

TIMESTAMP	AUDIT
01/10/2022 10:45 EST	Mike Moskowitz (mike@eclipsegmt.com) created document 'ng_special_permit.pdf' on Chrome via Windows from 104.251.140.108.
01/10/2022 10:45 EST	Betty Ann Berejik (berejikmotors@aol.com) was emailed a link to sign.
01/10/2022 11:28 EST	Betty Ann Berejik (berejikmotors@aol.com) viewed the document on Chrome via Windows from 98.238.63.154.
01/10/2022 11:29 EST	Betty Ann Berejik (berejikmotors@aol.com) authenticated via email on Chrome via Windows from 98.238.63.154.
01/10/2022 11:29 EST	Betty Ann Berejik (berejikmotors@aol.com) signed the document on Chrome via Windows from 98.238.63.154.
01/10/2022 11:44 EST	Mike Moskowitz (mike@eclipsegmt.com) viewed the document on Chrome via Windows from 104.251.140.108.
01/10/2022 11:44 EST	Mike Moskowitz (mike@eclipsegmt.com) authenticated via session on Chrome via Windows from 104.251.140.108.
01/10/2022 11:44 EST	Mike Moskowitz (mike@eclipsegmt.com) signed the document on Chrome via Windows from 104.251.140.108.

RIDER A

TO APPLICATION FOR AMENDMENT TO SPECIAL PERMIT NO. 2005-07

Reference is made to the Major Project Site Plan Special Permit No. 2005-07 issued to Needham Gateway, LLC (the "Applicant") on January 24, 2006 as amended August 15, 2006, December 19, 2006, April 1, 2008, November 15, 2011, March 6, 2012, July 10, 2012, August 13, 2012 and July 20, 2021 (collectively, the "Special Permit") with respect to a parcel of land containing approximately 82,581 square feet (the "Land") known as and numbered 100 and 120 Highland Avenue, Needham, MA. Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Special Permit.

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

Section 3.2 of the Special Permit, allows the use of 10,628 square feet of the building at 100 Highland Avenue and 8,020 square feet of the building at 120 Highland Avenue for general retail purposes and craft, consumer, professional or commercial service establishments dealing directly with the general public and 4,800 square feet of said building for a fast food restaurant. Further, although otherwise allowed as of right or by special permit in the underlying Highland Commercial-128 Zoning District, Section 3.3 of the Special Permit as amended expressly prohibits the following uses in the Shopping Center: (1) all sit down food and beverage restaurants; (2) all fast food pick up and/or delivery restaurants, excepting Panera Bread; (3) all sports clubs; and (4) all convenience markets.

1. Proposed Use:

The Applicant proposes to lease approximately 3,275 gross square feet of floor area in the building at 120 Highland Avenue to Carbon Health Medical Group of Florida, PA, a Florida professional corporation d/b/a "Carbon Health", duly registered as a foreign corporation in the Commonwealth of Massachusetts, which is wholly owned by a single physician licensed in the Commonwealth of Massachusetts. Based on its ownership, the proposed tenant asserts that it will not be required to be licensed as a clinic under GL Chapter 111, Section 51. Carbon Health intends to use the premises principally for the provision of primary and walk-in medical care and will have a maximum aggregate of eight (8) medical and non-medical staff on premises at any one time, including no more than two licensed physicians. Hours of operation are expected to be 8 AM - 8 PM, seven days a week, subject to possible change.

The proposed use will be located in space currently occupied by a Supercuts as a hair salon (approx. 1,000 s.f. of floor area), Omaha Steaks for retail sales of frozen foods (approx. 1,210 s.f. of floor area) and Hamra Management Company for office use (approx. 1,065 s.f. of floor area).

2. Determination of Use Category:

By letter dated December 29, 2021, a copy of which has been submitted with this application, the Building Commissioner has determined that the proposed use constitutes a "professional office" which is allowed as a matter of right in the Highland Commercial-128 District in which the premises are located.

The Commissioner's determination was based on the following analysis of the applicable Zoning By-Law provisions.

Section 3.2.5.1 includes the following as permitted uses in the Highland Commercial-128 District:

"Professional, business or administrative office, but not including a medical clinic or Medical Services Building or Group Practices or alternative medicine practices, physical therapy, and wellness treatment facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services, **all as defined in Sections 1.3 and 3.2.4.1."** (emphasis added)

Section 1.3 of the Zoning By-Law defines a "Professional" as follows:

"Professional – a person who by education and experience is a member of a recognized profession such as a **physician**, dentist, architect, attorney, artist or engineer." (emphasis added)

The word "Professional" and "Non-Group Practice" are further defined in Section 3.2.4.1 (c) of the Zoning By-Law as follows:

"Professional" shall include professional **medical**, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer **such professionals** ("Non-group Practice")." (emphasis added)

A "Group Practice" is defined in Section 3.2.3.1. (c) as follows

"... medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of **three or more** such professionals (hereinafter "Group Practices")" (emphasis added)

A "medical clinic" is defined in Section 1.3 as follows:

" Medical Clinic – An institution or facility providing medical, surgical, dental, restorative or mental hygiene services to persons not accommodated overnight therein, **under license as a clinic under Massachusetts General Laws**, whether or not affiliated with a hospital or other health care facility." (emphasis added)

A "Medical Services Building" is defined in Section 1.3 as follows:

"Medical Services Building – Premises with occupancy **limited to** doctor's offices, dentist's offices, orthodontic services, psychiatric, psychological and other mental health services, radiology and laboratory services, sale, and repair of medical devices and equipment or other health care or health care services, whether or not owned or affiliated with a hospital, but not including those licensed as a clinic." (emphasis added)

In reaching his determination, the Commissioner concluded that a "professional" in this context includes only a licensed physician and not a licensed nurse or other licensed para-professional. In this regard, he noted that reference to nurses and paraprofessionals was conspicuously absent from the above definitions making his interpretation wholly consistent with the actual language of the Zoning By-Law cited above. He further noted that his interpretation was also supported by the fact that elsewhere in the Zoning By-Law where there was an intent to include such other licensed parties, the By-Law explicitly so states (e.g. Section 3.6.7 (c) (1) referring to "physician, physician's assistant and nurse practitioner").

The Commissioner concluded that Carbon Health's proposed use fits the definition of a "Professional Office" allowed as a matter of right in the Highland Commercial - 128 District and is not a Group Practice, Medical Clinic or a Medical Services Building, nor is it an alternative medicine practice, physical therapy or wellness treatment facility as defined.

The Applicant requests that the Planning Board adopt a finding that Carbon Health's proposed use fits the generic use category of a professional or commercial service establishment dealing directly with the general public that is more specifically categorized under the Zoning By-Law as a "professional office" as determined by the Building Commissioner and that the proposed use as a "professional office" is allowed as a matter of right in the Highland Commercial - 128 District based on the foregoing analysis.

3. Parking Waiver:

The Special Permit contains a waiver of the off-street parking requirements under Sections 5.1.2 and 5.1.3 of the Zoning By-Law, reducing the number of spaces required from 127 to 97. The proposed use by Carbon Health will be located in space currently occupied by Supercuts as a hair salon (approx. 1,000 s.f), Omaha Steaks for retail sale of frozen foods (approx. 1,210 s.f.) and Hamra Management Company for office use (approx. 1,065 s.f.). The total number of required parking spaces for such existing uses are calculated as follows:

1. Omaha Steaks: 1,210 s.f of retail @ 1space/300 s.f. = 4.03 parking spaces required
2. Supercuts: 1,000 s.f. of retail service @ 1 space/300 s.f.= 3.33 parking spaces required
3. Hamra Management Co.: 1,065 s.f. of office @ 1space/300 s.f. = 3.55 parking spaces required.

After rounding up as required by the Zoning By-Law, based on the foregoing, eleven (11) parking Spaces are required for the existing uses.

Pursuant to Section 5.1.2 (6) of the Zoning By-Law, one parking space is required for every 200 square feet of floor area used for "medical...and related health service," resulting in 17 required

spaces for the proposed medical professional office use by Carbon Health, being six (6) spaces more than the number required for the existing uses.

The Applicant hereby requests that the Planning Board amend the Special Permit by the issuance of a special permit pursuant to Section 5.1.1.5 of the Zoning By-Law waiving the requirement for six (6) additional parking spaces calculated as aforesaid and confirming the existing waiver in the Special Permit as to the requirements of Section 5.1.3 of the Zoning By-Law.

In support of its request for the issuance of the above waiver, the Applicant has submitted with this application a Parking Study dated November 19, 2021, prepared by BSC Group, Inc. which demonstrates that the proposed use by Carbon Health does not warrant the number of parking spaces required by Section 5.1.2 and that existing 97 parking spaces are sufficient to accommodate all existing and proposed uses in the Shopping Center.

To the extent any other provisions of the Zoning By-Law require the granting of a special permit, waiver or an amendment to the existing Special Permit in order to allow the proposed use by Carbon Health, such special permit, waiver and/or amendment is hereby requested by the Applicant.

The Applicant hereby requests that the relief requested in this application run with Land.

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

January 24, 2022
Planning Board
Town of Needham
Public Services Administration Building
500 Dedham Avenue
Needham, MA 02492

Re: 100-120 Highland Avenue-Application for Amendment to Major Project Site Plan
Special Permit No. 2005-07; Carbon Health Medical Group of Florida, PA

Ladies and Gentlemen:

On behalf of the Applicant, Needham Gateway, LLC, enclosed are the following:

1. Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 with Rider A;
2. Proposed Floor Plan;
3. Parking Study by BSC Group dated November 19, 2021;
4. Letter from Commissioner Roche dated December 29, 2021;
5. Legal Analysis from Foley & Lardner dated January 19, 2022;
6. Evidence of Physician Shareholder Mass. Licensure; and
7. Proposed form of Legal Notice.

A check in the amount of \$1,000.00 payable to the Town of Needham for the required fee was previously delivered to the Planning Department.

Given the nature of the requested amendment, no site plan is being required for this Application.

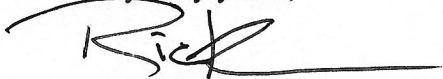
Please instruct the newspaper to send the invoice for the legal notice to:

Michael Moskowitz
66 Cranberry Lane
Needham, MA 02492

Tel Number: (781)-910-7933

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Rick", with a long horizontal flourish extending to the right.

Richard S. Mann, Esq.

cc: Michael Moskowitz

Compose

Mail

- Inbox
- Starred
- Snoozed
- Sent
- Drafts
- [Gmail]
- [Gmail]/Drafts

Chat

Spaces

No spaces yet
Create or find a space

Meet

- New meeting
- My meetings



Commonwealth of Massachusetts
BOARD OF REGISTRATION IN MEDICINE



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Physician Profile

Sujal S. Mandavia, M.D.

This profile is being updated and will be available on 2/19/2022.

[What does this mean?](#)

License Number	291039
License Status	Active
License Issue Date	1/20/2022
License Expiration Date	8/6/2022
NPI Number	1992791164

Instructions for obtaining public information about a physician are available at our [public information page](#). Questions about a physician's Profile may be submitted to ma.profiles@state.ma.us. You may also contact the Massachusetts Board of Registration in Medicine, 200 Harvard Mill Square, Suite 330, Wakefield, MA 01880. Phone 781-876-8200 for public information about a physician or questions about a physician's Profile. Detailed information about Massachusetts Board disciplinary actions on physicians may be found at our [Disciplinary and Other Board Action](#) page.

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On Mon, Jan 24, 2022 at 9:16 AM Meghna Parikh <meg@carbonhealth.com> wrote:
Can you send me the screenshot you share via Slack? Ty!!

To:	Mike Moskowitz Needham Gateway LLC PO Box 920757 Needham, Massachusetts 02492	Date:	November 19, 2021
From:	Michael A. Santos, PE, PTOE	Proj. No.	28454.00
Re:	Parking Evaluation 100 Highland Avenue – Needham, Massachusetts		

BSC Group, Inc. has conducted an evaluation of the changes in parking demand related to changes in use of retail spaces located at the commercial plaza at 100-120 Highland Avenue (the “Project”) in Needham, Massachusetts. The parking evaluation consists of 48-hour traffic counts at the driveways that serve the site, parking occupancy observations on the site, parking demand estimates related to the changes in use, and an analysis of the impacts of the changes in use. This evaluation indicates that the existing parking supply will accommodate the proposed changes in use, which are described in the following section.

Project Description

The Project site is located at 100 Highland Avenue at the intersection of Highland Avenue and Second Avenue in Needham, Massachusetts. The site is currently served by a two-way driveway on Highland Avenue and a two-way driveway along Second Avenue. The uses on the site consist of two buildings: a 10,628 square foot (sf) building that contains a Frank Webb’s Bath Center and a 11,150 sf building that contains several uses including a Panera Bread, Omaha Steaks, SuperCuts, Hamra, and a Geico office. At the time of this study, the SuperCuts was not in operation.

The Project will replace the Omaha Steaks, SuperCuts, and Hamra with a Carbon Health urgent care facility consisting of approximately 3,000 sf of space. The Project will also replace the Frank Webb’s Bath Center with an XGolf simulator facility that will occupy the entire building (10,628 sf). The XGolf facility will have a total of 8 golf simulation kiosks and will experience peak operations during weekday evenings and on the weekend. The site plan is shown in **Figure 1**. The details of the new uses are provided in the Appendix.

The proposed uses on the site are expected to have different parking needs and trends than the existing uses that they are replacing, especially the XGolf facility. This evaluation was prepared to document how the changes in use impact the existing parking supply by collecting existing parking data, estimating anticipated parking demand for the new uses, and developing expected future parking demand for the entire site with the new uses.

The following sections describe the evaluation.

Figure 1
Site Plan



Existing Traffic Volumes

Existing traffic counts were conducted at the two driveways that serve the site to estimate the level of activity at the site over the course of a Friday and Saturday. The counts were collected through automatic traffic recorders (ATRs) on Friday October 29 and Saturday October 30, 2021. The count data is presented in **Figure 2** for the Friday counts and **Figure 3** for the Saturday counts and the detailed data is provided in the Appendix.

Figure 2
Weekday Traffic Counts

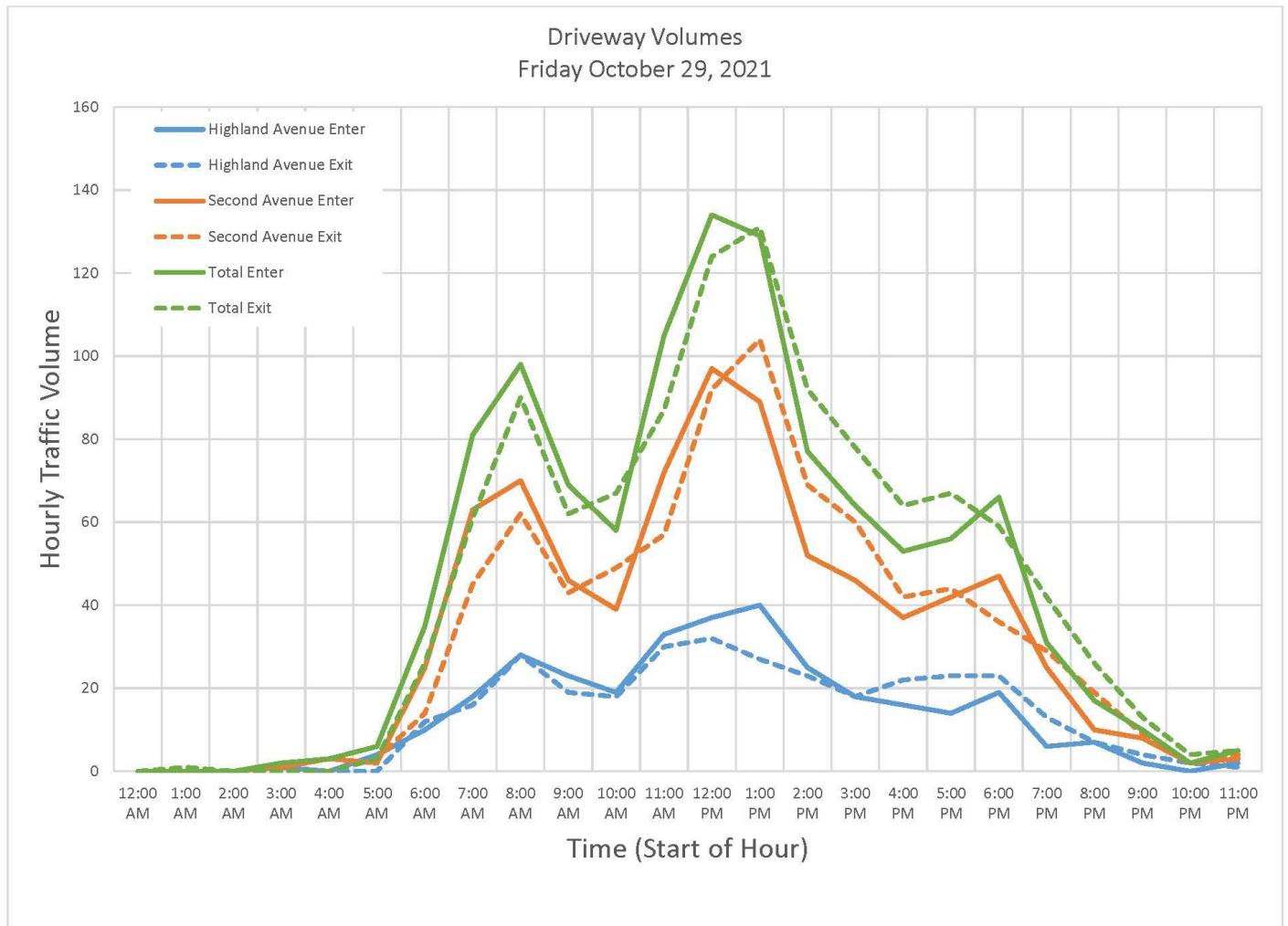


Figure 2 indicates that on a weekday the activity peaks during the afternoon around noon, with minor peaks at 8:00 AM and again at 6:00 PM. A total of 98 vehicles entered and 90 exited between 8:00 – 9:00 AM; 134 vehicles entered and 124 exited between 12:00 – 1:00 PM; and 66 vehicles entered and 59 exited between 6:00 – 7:00 PM. Entering and exiting vehicles follow similar patterns at both driveways throughout the day, indicating that the uses on the site experience quick parking turnover and that most vehicles do not remain

parked for the entire day. The counts indicate that a total of 1,101 vehicles entered the site and 1,102 vehicles exited the site over the course of the Friday. Approximately 71 percent of the activity occurred at the Second Avenue driveway, with the remaining 29 percent occurring at the Highland Avenue driveway.

Figure 3
Saturday Traffic Counts

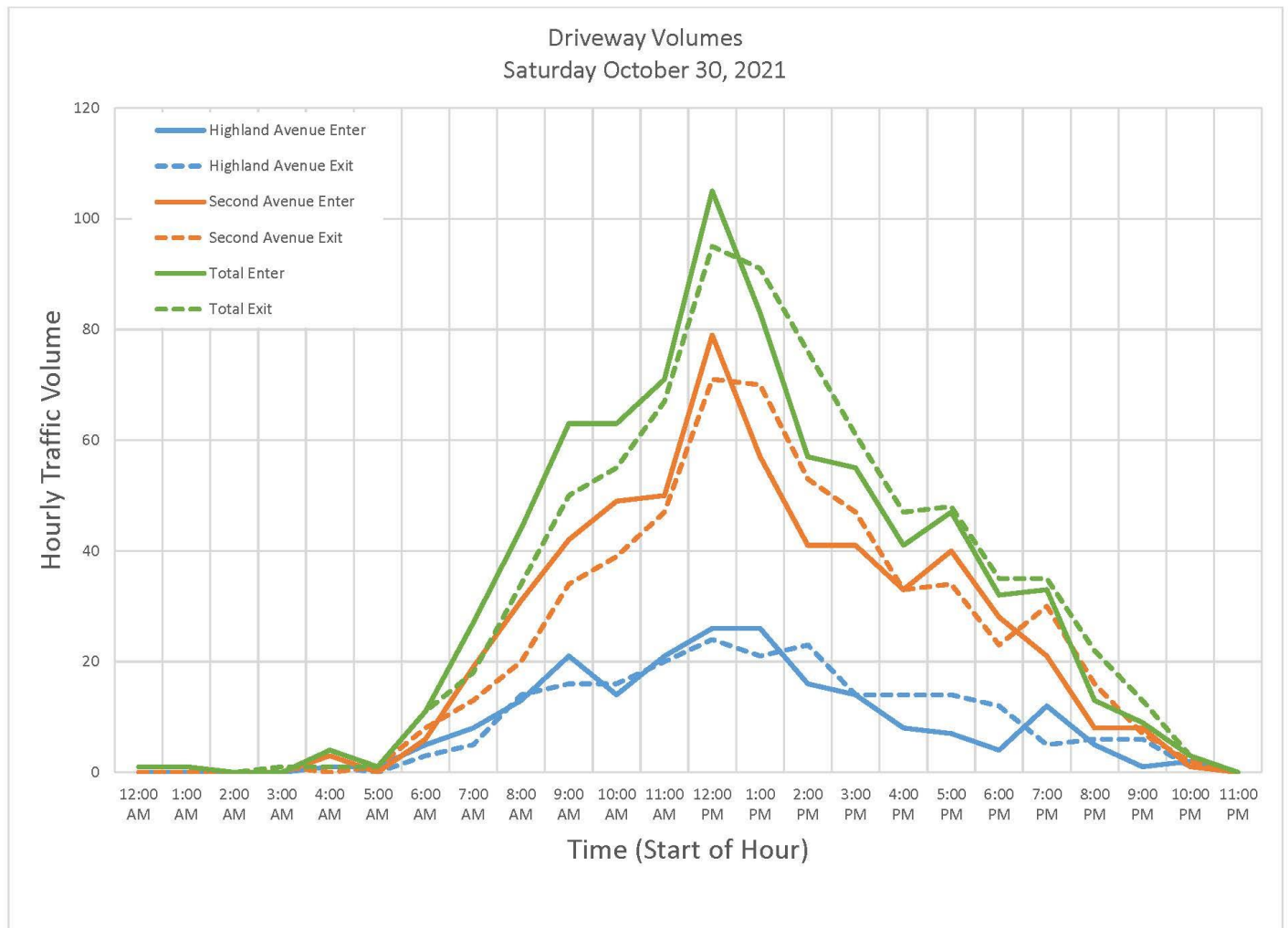


Figure 3 indicates that the activity on a Saturday has one primary peak during the afternoon around noon. A total of 105 vehicles entered and 95 exited between 12:00 – 1:00 PM during the count period. Similar to the weekday traffic counts, entering and exiting vehicles follow similar patterns at both driveways throughout the day, indicating that the uses on the site experience quick parking turnover and that most vehicles do not remain parked for the entire day. The counts indicate that a total of 764 vehicles entered the site and 766 vehicles exited the site over the course of the Saturday. Approximately 72 percent of the activity occurred at the Second Avenue driveway, with the remaining 28 percent occurring at the Highland Avenue driveway.

Parking Evaluation

An evaluation of the existing and future parking demand was conducted to determine the impacts by the change in use to the parking supply. The evaluation used a three-step process to estimate the future parking demand with the new uses in place. The three steps include the following:

- Conduct a parking occupancy study to determine the existing parking demand on the site
- Collect customer/pedestrian data for the uses to be replaced
- Estimate parking demand for the new uses based on available industry data and anticipated operational information

The following sections describes each step of the process.

Parking Occupancy and Availability Study

The existing parking lot contains a total of 97 spaces and will not be modified as part of the change in use on the site. Parking occupancy counts were conducted at the 100 Highland Avenue parking lot over the course of 12 hours on Friday October 29 (between 8:00 AM and 8:00 PM) and Saturday October 30, 2021 (between 10:00 AM and 10:00 PM) to determine the existing utilization of the parking spaces on the site. The counts were conducted by camera in 15-minute intervals. These time periods were selected for evaluation to overlap with the peak activity related to the medical facility during normal business hours on weekdays and the golf facility on Saturday afternoon through the evening hours.

The data from the parking occupancy and availability study is presented in **Figure 4** for Friday **Figure 5** for Saturday the two days on which data was collected. The detailed data is provided in the Appendix.

Figure 4
Existing Parking Occupancy and Availability - Friday

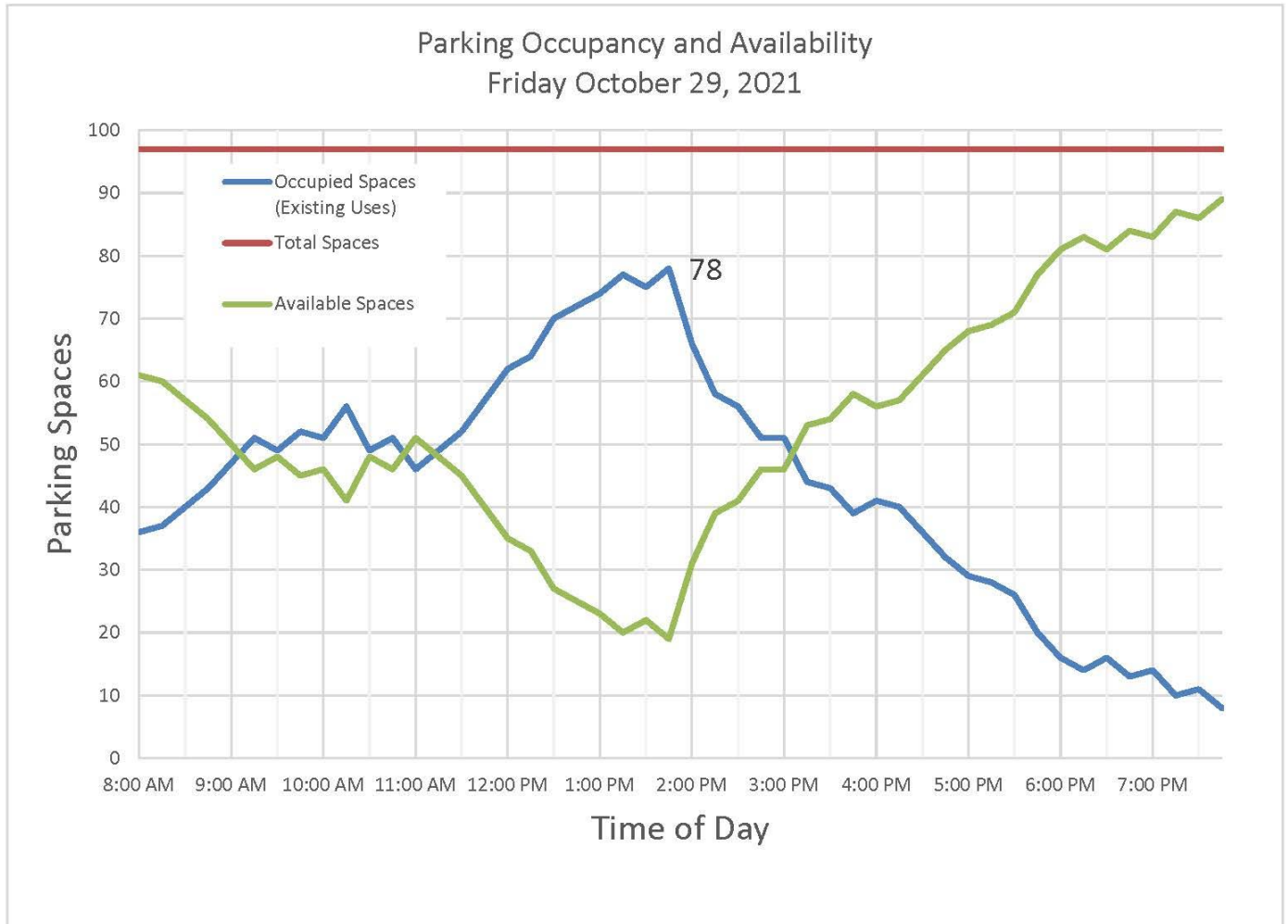


Figure 4 presents the overall parking supply (97 vehicles shown by the red horizontal line), the number of occupied spaces, and the number of available spaces between 8:00 AM and 8:00 PM on Friday October 29, 2021. Based on this evaluation, parking demand peaks between 1:00 – 2:00 PM on Friday, with a maximum of 78 parked vehicles occurring at 1:45 PM. A total of 19 parking spaces remain available during the busiest time of the day under the existing conditions.

Figure 5
Existing Parking Occupancy and Availability – Saturday

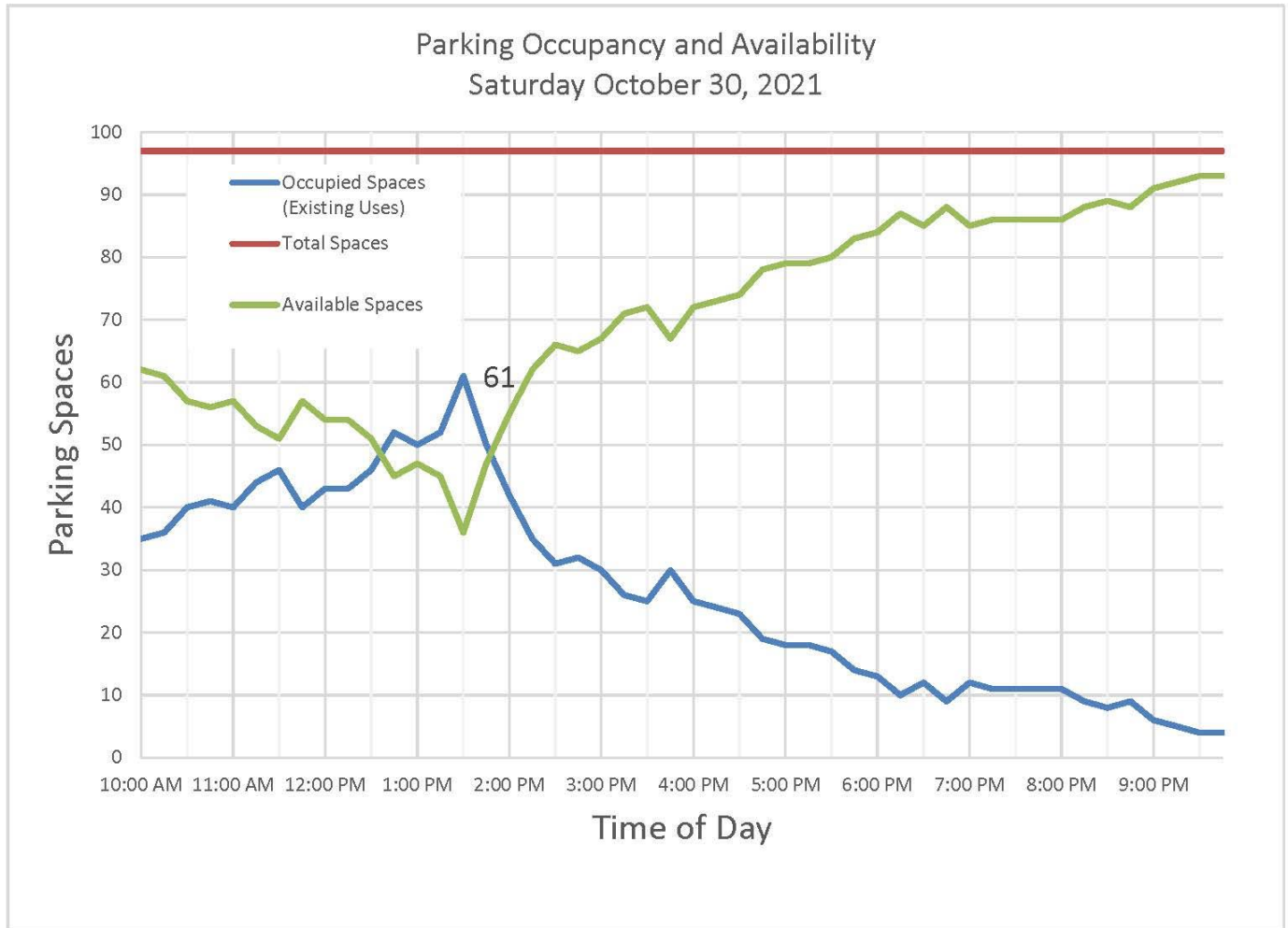


Figure 5 presents the overall parking supply (97 vehicles shown by the red horizontal line), the number of occupied spaces, and the number of available spaces between 10:00 AM and 10:00 PM on Saturday October 30, 2021. Based on this evaluation, parking demand peaks between 1:00 – 2:00 PM on Saturday, with a maximum of 61 parked vehicles occurring at 1:30 PM. A total of 36 parking spaces remain available during the busiest time of the day under the existing conditions. During the mid-afternoon through early evening, parking demand decreases steadily. This is the period of time that is expected to be the peak for the golf simulator use that will replace the Frank Webb showroom, indicating that the peak for this use occurs during the least busy time for the rest of the site.

Pedestrian Counts

Concurrent with the parking occupancy study, pedestrian and customer counts were conducted using cameras to determine the activity at the existing Omaha Steaks and Frank Webb uses on the site. Only customers entering from the parking lot were counted to ensure that people arriving using other modes of transportation were not accounted for, since the goal of this study is to provide an evaluation of vehicle parking demand.

The customer counts were then used to determine the parking demand for both uses that will be replaced. Customer counts were not conducted at Hamra or at Supercuts. Both of these uses were not expected to generate significant customer activity that would have any impact on this evaluation. In order to estimate the parking demand for the Omaha Steaks and the Frank Webb uses, the customers were counted in clusters to account for multiple people arriving in a single vehicle. The detailed pedestrian counts are provided in the Appendix. A graphical representation of the pedestrian counts is provided in the next section.

The pedestrian observations indicate that on Friday, the maximum parking demand for Omaha Steaks and F.W. Webb is 4 vehicles and occurs between 11:00 AM – 12:00 PM. On Saturday, the maximum parking demand for the same uses is 8 vehicles and occurs between 1:00 – 2:00 PM. These values are indicated on **Figure 6** for the Friday and on **Figure 7** for the Saturday as negative numbers, since this demand is being removed from the site. The parking demand to be removed by the existing uses are shown by the dashed line on these figures.

Future Parking Demand

Parking demand for the future conditions on the site with the changes of use in place was estimated to determine how the new uses impact the parking supply on the site. Parking demand estimates were calculated for the proposed Carbon Health urgent care facility using data provided in the Institute of Transportation Engineers *Parking Generation Manual*¹ using Land Use Code 630 – Clinic. The *Parking Generation Manual* provides a range of parking demands for this use based on data collected from similar uses throughout the country. The manual also provides a time-of-day distribution for the parking demand. Based on this evaluation, the peak parking demand for the facility on the site is expected to be 11 vehicles, which will occur between 10:00 AM and noon.

Parking demand estimates for the proposed XGolf golf simulator use are not provided in the *Parking Generation Manual*. The parking demand for this use was developed by obtaining anticipated operations of the use and developing estimates based on expected number of golf simulators, employees, and the intensity of the use throughout the day. The golf simulator use experiences the most activity on Saturday afternoons through the evening. During the week, peak activity related to this use occurs during the evening periods. The golf simulator use will install eight simulation kiosks which can accommodate up to 4 people. During peak times, a maximum of five employees will be on site. Based on this operational data, the maximum number of parked vehicles for this use will be 37, assuming that every customer and employee uses their own vehicle to arrive on the site. This is the most conservative (highest) estimate for this use, as it is very likely that many customers will arrive in the same vehicle. A time-of-day distribution of intensity of this use was developed based on the expected customer demand throughout the day. The time-of-day distribution assumes that peak usage will occur around 6:00 PM and later on weekdays and around 3:00 PM and later on Saturdays.

Figure 6 and **Figure 7** show the parking demand for the Carbon Health facility, the XGolf facility, the existing uses to be removed, and the overall change in parking demand throughout the course of the day on Friday and Saturday, respectively.

¹ *Parking Generation Manual, 5th Edition*; Institute of Transportation Engineers; Washington, DC; 2019.

Figure 6
Change in Parking Demand with Change in Use – Weekday

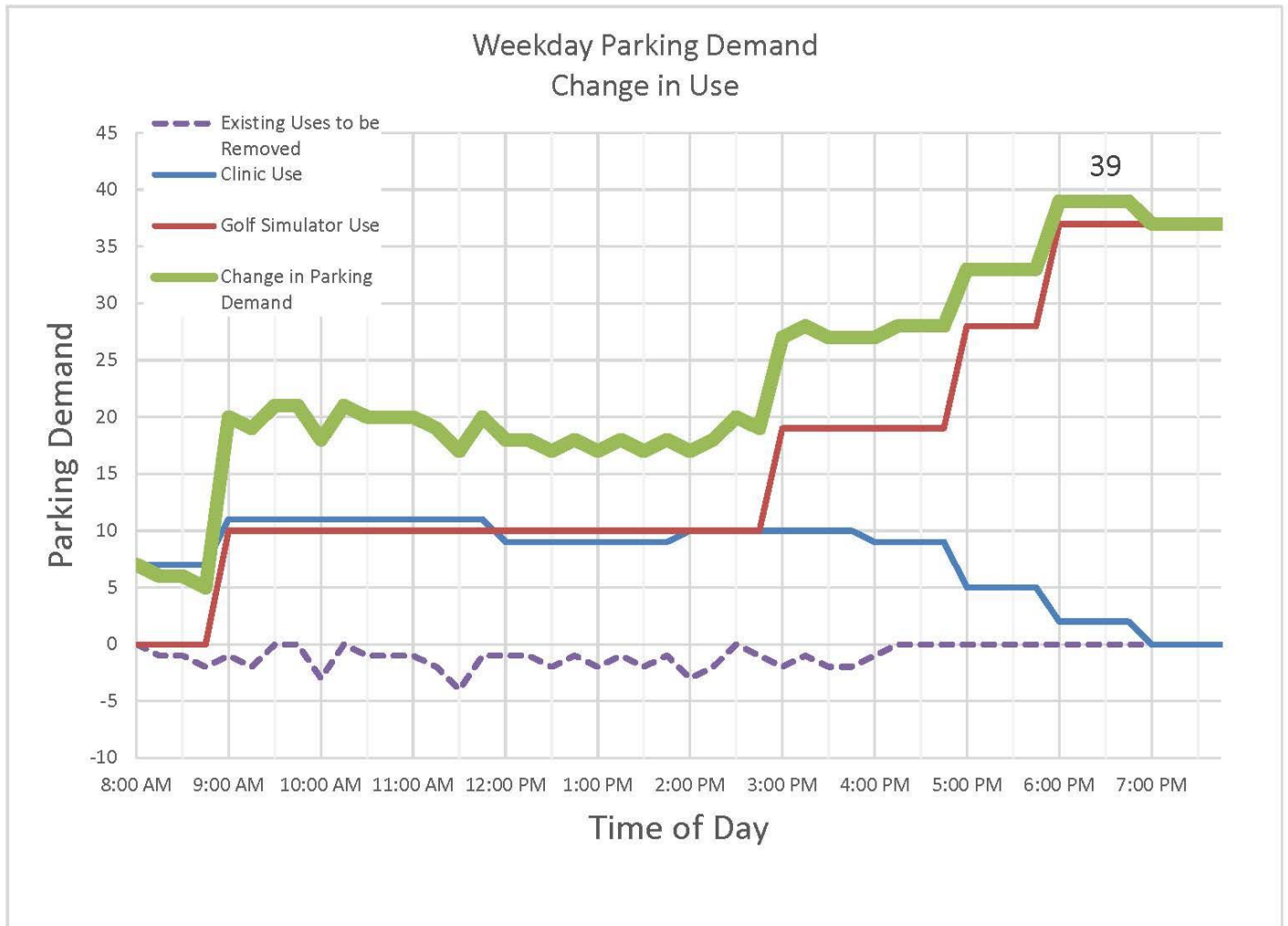


Figure 6 shows the parking demand for the Carbon Health facility (blue line), the XGolf facility (red line), and the existing uses that will be replaced (dashed line). The changes in the parking demand resulting from the changes in use are shown by the green line. The overall increase in parking demand is around 20 vehicles between 9:00 AM and 2:45 PM. Around 3:00 PM, the XGolf facility begins to experience heavier demand for parking, resulting in increases throughout the evening and a maximum increase of 39 vehicles at 6:00 PM.

Figure 7
Change in Parking Demand with Change in Use – Saturday

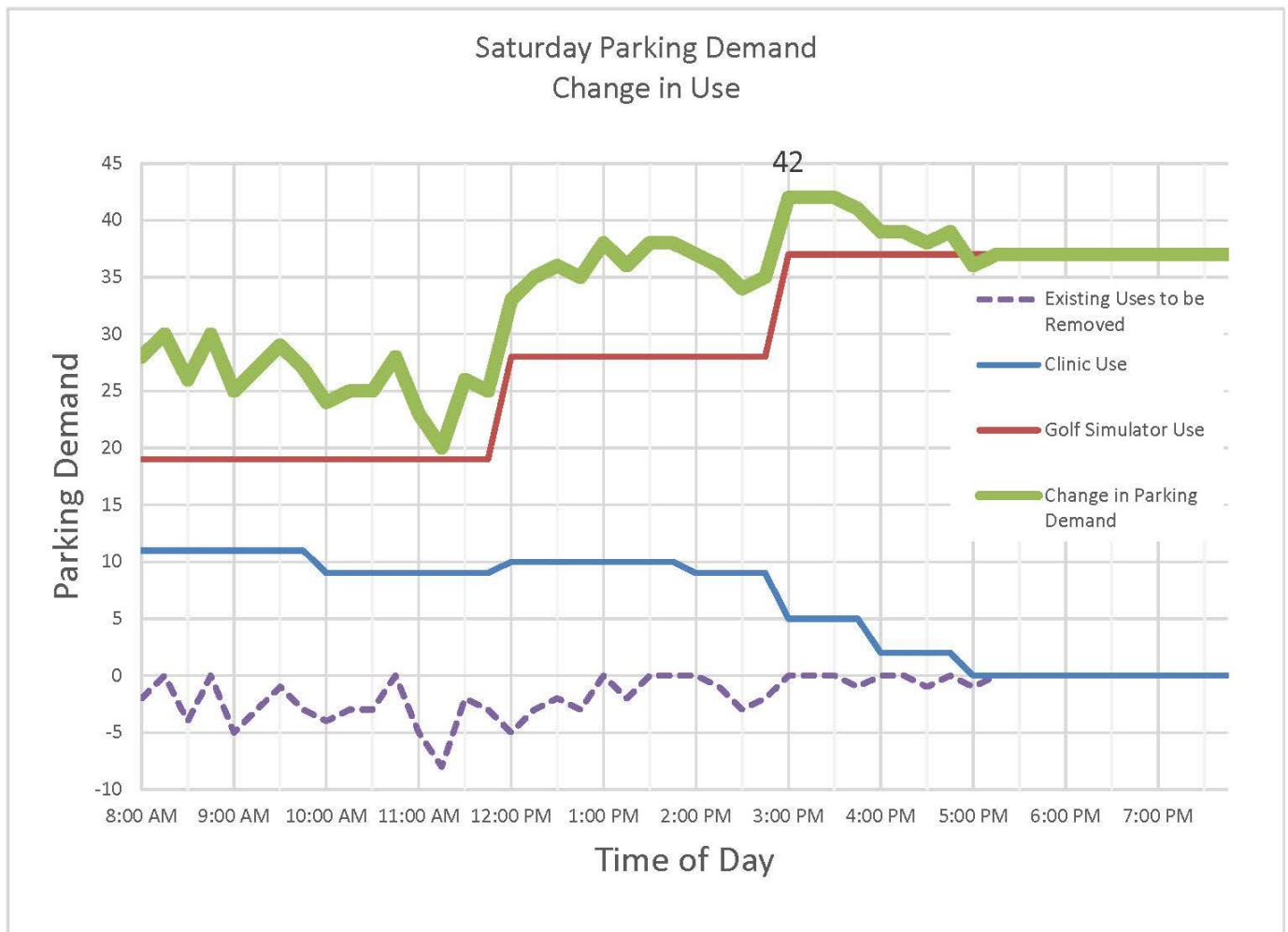


Figure 7 shows the parking demand for the Carbon Health facility (blue line), the XGolf facility (red line), and the existing uses that will be replaced (dashed line). The changes in the parking demand resulting from the changes in use are shown by the green line. The overall increase in parking demand is around 30 to 40 vehicles between 10:00 AM and 2:30 PM. Around 3:00 PM, the XGolf facility begins to experience heavier demand for parking, resulting in increases throughout the evening and a maximum increase of 43 vehicles at 3:00 PM.

The changes in parking demand were then compared to the available amount of parking observed during the parking occupancy evaluation. The changes shown in the green lines in Figures 6 and 7 were added to the existing parking demand on the site to develop the total future parking demand with the changes in use on the site. The new parking demand is shown on **Figure 8** for the weekday and **Figure 9** for Saturday.

Figure 8
Change in Parking Demand with Change in Use – Weekday

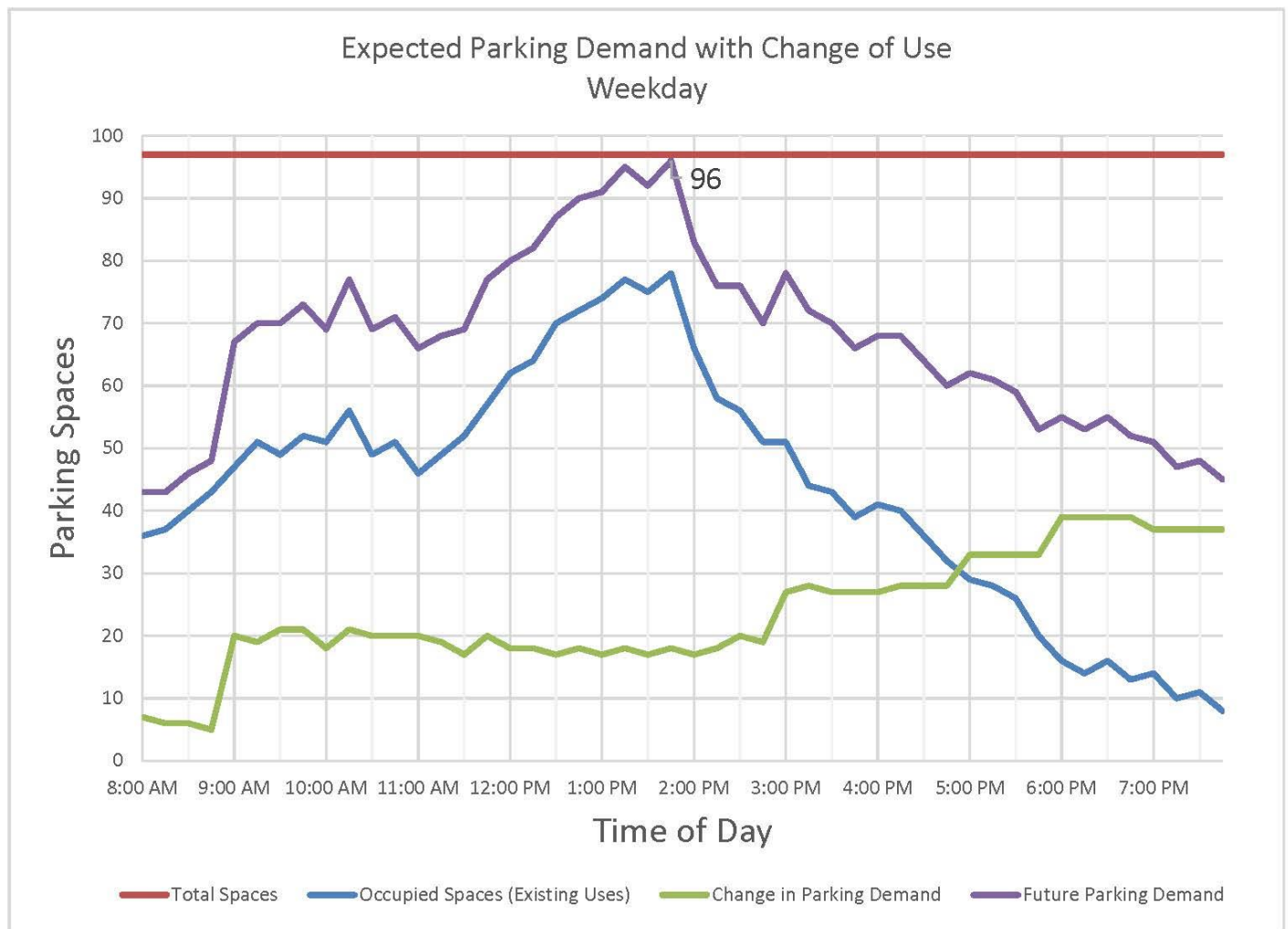


Figure 8 shows the existing parking demand based on the observations (blue line), the expected change in parking demand from the change in uses (green line), and the expected future parking demand for the entire site (purple line). The parking supply is also shown as a horizontal line and remains consistent with the existing conditions (97 total parking spaces). As shown on Figure 8, the future parking demand during the weekday will peak (96 vehicles) around 1:45 PM when the Carbon Health facility is open and XGolf will be in use, but not at full capacity. This specific time period also coincides with the latter portion of the lunch time rush that is experienced at the Panera Bread on the site. During the morning and evening, it is expected that there will continue to be plenty of available parking on the site to accommodate the changes in use. The overall future parking demand estimates also rely on conservative assumptions for XGolf – primarily that customers will travel to the site in their own vehicle. Based on this evaluation, there is sufficient parking on the site to accommodate the changes in use during on a Friday.

Figure 9
Change in Parking Demand with Change in Use – Saturday

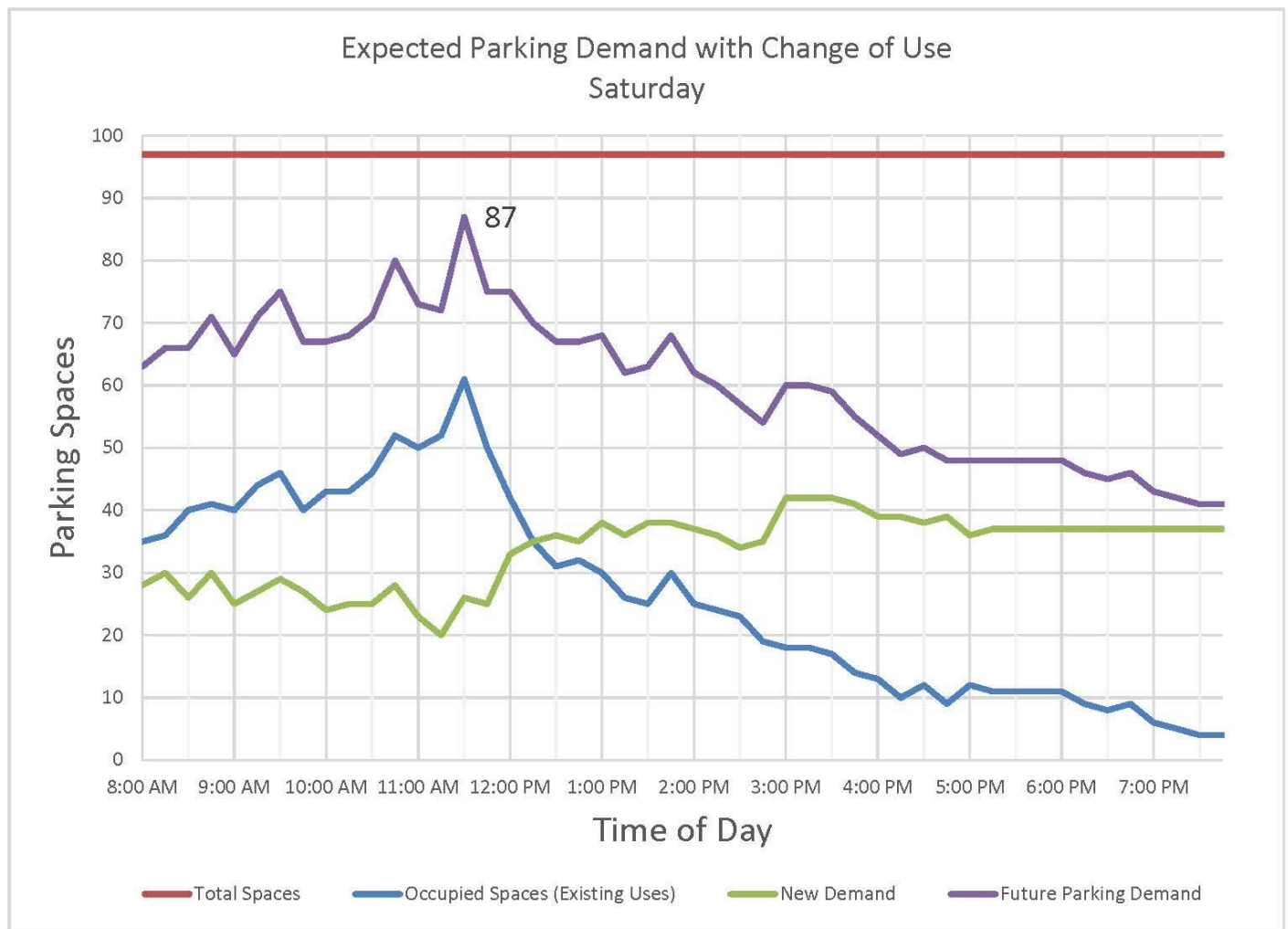


Figure 9 shows the existing parking demand based on the observations (blue line), the expected change in parking demand from the change in uses (green line), and the expected future parking demand for the entire site (purple line). The parking supply is also shown as a horizontal line and remains consistent with the existing conditions (97 total parking spaces). As shown on Figure 9, the future parking demand on a Saturday will peak (87 vehicles) around 11:30 AM when the Carbon Health facility is open and XGolf will be in use. This specific time period also coincides with the Saturday peak of the Panera Bread on the site. Based on this evaluation, it is expected that there will continue to be plenty of available parking on the site to accommodate the changes in use throughout the majority of the day and that there is sufficient parking on the site to accommodate the changes in use during on a Saturday.

Conclusions

The Project site is located at 100-120 Highland Avenue in Needham, Massachusetts. The Project proposes to change some uses on the site, which require a parking occupancy and demand evaluation. The Site consists of two buildings: a 11,628 sf building that currently houses a Frank Webb's Bath Center and an 11,150 sf building that contains a Panera Bread, Omaha Steaks, SuperCuts, Hamra, and a Geico office. The Project will replace the Omaha Steaks, SuperCuts, and Hamra Uses with a Carbon Health urgent care facility (approximately 2,210 sf) and will replace the Frank Webb use with an XGolf golf simulator facility.

This evaluation included traffic counts at the driveways to understand general daily traffic trends of the site, parking occupancy counts on a Friday and Saturday to understand the parking demands of the existing uses, pedestrian counts at the Omaha Steaks and the Frank Webb spaces to understand activity specific to these uses that will be replaced, and parking demand estimates for the new uses that will be located on the site.

Based on this evaluation, the existing parking supply will accommodate the Carbon Health urgent care facility and the XGolf golf simulator. The Carbon Health facility will have a peak parking demand of 11 vehicles, which will typically occur around late morning to noon on weekdays and Saturdays. The XGolf facility will have a peak parking demand of approximately 37 vehicles, based on conservative parameters, which will typically occur later in the evening on weekdays and throughout the mid to late afternoon and early evening on Saturdays. The peak parking demand for the Carbon Health facility will overlap with the peak demand for the existing uses on the site, of which Panera Bread has the most intense parking needs. The peak parking demand for the XGolf facility will occur when the other uses on the site do not require their peak demand needs. The XGolf facility complements the other uses on the site by having peak parking demands that do not coincide with each other.

APPENDIX**SITE INFORMATION****EXISTING DRIVEWAY COUNTS****PARKING OCCUPANCY DATA AND CALCULATIONS**

SITE INFORMATION

PROPERTY OVERVIEW



Note: (1) Executed LOI to Aranson Insurance

Hours of Operation, Weekly Customer Trends and Seasonality

Proposed Hours of Operation:

Monday through Thursday	9am-10pm
Friday and Saturday	9am-11pm
Sunday	9am-9pm

Weekly Customer Trends:

During the week, our busiest times are weeknights (leagues) and weekends (open play).

Weekday mornings and afternoons we have lessons and clinics but are generally much slower.

Seasonality:

Summer is our slowest season (Jun-Sep).

Winter is our busiest season (Dec-Mar).

Fall and Spring demand is mostly weather dependent (Apr, May, Oct, Nov).

EXISTING DRIVEWAY COUNTS

Volume Report

Job 807_010_BSC_ATR A

Area Needham, MA

Location Driveway, south of Highland Ave

Friday, October 29, 2021

BOSTON
TRAFFIC DATA
PO BOX 1723, Framingham, MA 01701
Office: 978-746-1259
DataRequest@BostonTrafficData.com
www.BostonTrafficData.com

Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
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0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
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0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
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0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0445	0	0	0	0	0	0	0	0	0	0	0	0	0	0
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0515	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0530	0	0	0	0	0	0	0	0	1	0	0	0	0	1
0545	0	0	0	0	0	0	0	0	0	3	0	0	0	3
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0615	0	0	3	0	0	0	3	0	0	6	0	0	0	6
0630	0	0	5	0	0	0	5	0	0	2	0	0	0	2
0645	0	0	3	0	0	0	3	0	0	2	0	0	0	2
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0715	0	0	4	0	0	0	4	0	0	2	0	0	0	2
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0845	0	0	9	0	0	0	9	0	0	7	0	2	0	9
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0915	0	0	3	0	0	0	3	0	0	7	0	0	0	7
0930	0	0	5	0	0	0	5	0	0	7	0	0	0	7
0945	1	0	4	0	1	0	6	0	0	3	0	0	0	3
1000	0	0	3	0	0	0	3	0	0	5	0	0	0	5
1015	0	0	4	0	0	0	4	0	0	2	0	0	0	2
1030	0	0	3	0	0	0	3	0	0	8	0	0	0	8
1045	1	0	7	0	0	0	8	0	0	4	0	0	0	4
1100	0	0	6	0	0	0	6	0	0	5	0	0	0	5
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1130	0	0	12	0	0	0	12	0	0	5	0	0	0	5
1145	0	0	7	0	0	0	7	0	0	11	0	0	0	11
1200	0	0	8	0	0	0	8	0	0	7	0	0	0	7
1215	0	0	5	0	0	0	5	0	0	7	0	0	0	7
1230	0	0	11	0	0	0	11	1	0	14	0	0	0	15
1245	1	0	7	0	0	0	8	0	0	8	0	0	0	8
1300	0	0	5	0	0	0	5	0	0	10	0	1	0	11
1315	0	0	10	0	0	0	10	0	0	9	0	0	0	9
1330	0	0	5	0	0	0	5	0	0	8	0	0	0	8
1345	0	0	7	0	0	0	7	0	0	11	0	1	0	12
1400	0	0	5	0	1	0	6	0	0	8	0	0	0	8
1415	0	0	8	0	0	0	8	0	0	5	0	0	0	5
1430	0	0	5	0	0	0	5	0	0	4	0	0	0	4
1445	0	0	4	0	0	0	4	0	0	8	0	0	0	8
1500	0	0	5	0	0	0	5	0	0	2	0	0	0	2
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1530	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1545	0	0	5	0	0	0	5	0	0	4	0	0	0	4
1600	0	0	3	0	0	0	3	0	0	2	0	0	0	2
1615	0	0	7	0	0	0	7	0	0	4	0	0	0	4
1630	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1645	0	0	8	0	0	0	8	0	0	3	0	0	0	3
1700	0	0	3	0	0	0	3	0	0	3	0	0	0	3
1715	0	0	7	0	0	0	7	0	0	6	0	0	0	6
1730	1	0	7	0	0	0	8	0	0	3	0	0	0	3
1745	0	0	5	0	0	0	5	0	0	2	0	0	0	2
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1900	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1915	0	0	2	0	0	0	2	0	0	0	0	0	0	0
1930	0	0	5	0	0	0	5	0	0	2	0	1	0	3
1945	0	0	2	0	0	0	2	0	0	2	0	0	0	2
2000	0	0	2	0	0	0	2	0	0	3	0	0	0	3
2015	0	0	2	0	0	0	2	0	0	2	0	0	0	2
2030	0	0	1	0	0	0	1	0	0	2	0	0	0	2
2045	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2100	0	0	1	0	0	0	1	0	0	1	0	0	0	1
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2145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2245	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2300	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2315	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	1	0	0	0	1	0	0	0	0	0	0	0
Total	4	0	313	0	2	0	319	2	1	313	0	6	0	322

Volume Report

Job 807_010_BSC_ATR A

Area Needham, MA

Location Driveway, south of Highland Ave

BOSTON
TRAFFIC DATA
PO BOX 1723, Framingham, MA 01701
Office: 978-746-1259
DataRequest@BostonTrafficData.com
www.BostonTrafficData.com

Saturday, October 30, 2021

Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0230	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0400	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0445	0	0	0	0	1	0	1	0	0	0	0	1	0	1
0500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0515	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0530	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0545	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0600	0	0	1	0	0	0	1	0	0	1	0	1	0	2
0615	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0630	0	0	1	0	0	0	1	0	0	2	0	0	0	2
0645	0	0	1	0	0	0	1	0	0	1	0	0	0	1
0700	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0715	0	0	2	0	0	0	2	0	0	3	0	0	0	3
0730	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0745	0	0	3	0	0	0	3	0	0	4	0	0	0	4
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0815	0	0	4	0	0	0	4	0	0	4	0	0	0	4
0830	0	0	5	0	0	0	5	0	0	5	0	0	0	5
0845	0	0	4	0	0	0	4	0	0	2	0	0	0	2
0900	0	0	2	0	0	0	2	0	0	5	0	0	0	5
0915	0	0	6	0	0	0	6	0	0	3	0	1	0	4
0930	0	0	3	0	0	0	3	0	0	5	0	0	0	5
0945	0	0	5	0	0	0	5	0	0	7	0	0	0	7
1000	0	0	5	0	0	0	5	0	0	5	0	0	0	5
1015	0	0	2	0	1	0	3	0	0	2	0	0	0	2
1030	0	0	3	0	1	0	4	0	0	5	0	0	0	5
1045	0	0	4	0	0	0	4	0	0	2	0	0	0	2
1100	0	0	8	0	0	0	8	0	0	4	0	0	0	4
1115	0	0	2	0	0	0	2	0	0	4	0	0	0	4
1130	0	0	5	0	0	0	5	0	0	3	0	0	0	3
1145	0	0	5	0	0	0	5	0	0	10	0	0	0	10
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1215	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1230	0	0	3	0	0	0	3	0	0	4	0	0	0	4
1245	0	0	7	0	0	0	7	0	0	3	0	0	0	3
1300	0	0	3	0	0	0	3	0	0	8	0	0	0	8
1315	0	0	3	0	0	0	3	0	0	11	0	0	0	11
1330	0	0	8	0	0	0	8	0	0	2	0	0	0	2
1345	0	0	7	0	0	0	7	0	0	5	0	0	0	5
1400	0	0	11	0	0	0	11	0	0	4	0	0	0	4
1415	0	0	2	0	0	0	2	0	0	2	0	0	0	2
1430	0	0	4	0	0	0	4	0	0	7	0	0	0	7
1445	0	0	6	0	0	0	6	0	0	3	0	0	0	3
1500	0	0	5	0	0	0	5	0	0	6	0	0	0	6
1515	0	0	5	0	0	0	5	0	0	1	0	0	0	1
1530	0	0	0	0	0	0	0	0	0	6	0	0	0	6
1545	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1600	0	0	5	0	0	0	5	0	0	4	0	0	0	4
1615	0	0	2	0	0	0	2	0	0	1	0	0	0	1
1630	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1645	0	0	3	0	0	0	3	0	0	2	0	0	0	2
1700	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1715	0	0	3	0	0	0	3	0	0	3	0	0	0	3
1730	0	0	5	0	0	0	5	0	0	2	0	0	0	2
1745	0	0	2	0	0	0	2	0	0	1	0	0	0	1
1800	0	0	5	0	0	0	5	0	0	1	0	0	0	1
1815	0	0	2	0	0	0	2	0	0	2	0	0	0	2
1830	0	0	4	0	0	0	4	0	0	1	0	0	0	1
1845	0	0	1	0	0	0	1	0	0	0	0	0	0	0
1900	0	0	2	0	0	0	2	0	0	2	0	0	0	2
1915	0	0	1	0	0	0	1	0	0	1	0	0	0	1
1930	0	0	1	0	0	0	1	0	0	4	0	0	0	4
1945	0	0	1	0	0	0	1	0	0	5	0	0	0	5
2000	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2015	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2030	0	0	1	0	0	0	1	0	0	3	0	0	0	3
2045	0	0	4	0	0	0	4	0	0	0	0	0	0	0
2100	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2115	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2130	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2145	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2200	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	214	0	3	0	217	0	0	202	0	3	0	205

Volume Report

Job 807_010_BSC_ATR B
Area Needham, MA
Location Driveway, north of 2nd Ave

Friday, October 29, 2021



Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0230	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0345	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0400	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	2	0	0	0	2	0	0	0	0	0	0	0
0445	0	0	0	0	0	1	1	0	0	0	0	0	0	0
0500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0515	0	0	1	0	0	0	1	0	0	1	0	0	1	2
0530	0	0	0	0	0	0	0	0	1	0	0	0	0	1
0545	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0600	0	0	2	0	0	0	2	0	0	1	0	0	0	1
0615	0	0	3	0	1	0	4	0	0	0	0	0	0	0
0630	0	0	11	0	0	0	11	0	0	5	0	2	0	7
0645	0	0	8	0	0	0	8	0	0	6	0	0	0	6
0700	0	0	12	0	0	0	12	0	0	4	0	0	0	4
0715	0	0	12	0	0	0	12	0	0	9	0	1	0	10
0730	0	0	22	0	0	0	22	0	0	10	0	0	0	10
0745	0	0	17	0	0	0	17	0	0	21	0	0	0	21
0800	0	0	18	0	0	0	18	0	0	16	0	0	0	16
0815	0	0	15	0	1	0	16	1	0	12	0	0	0	13
0830	0	0	19	0	1	0	20	0	0	13	0	1	0	14
0845	1	0	15	0	0	0	16	1	0	16	0	2	0	19
0900	0	0	9	0	0	0	9	0	0	5	0	1	0	6
0915	0	0	11	0	0	0	11	0	0	14	0	0	0	14
0930	0	0	16	0	0	0	16	0	0	16	0	0	0	16
0945	1	0	8	0	1	0	10	0	0	7	0	0	0	7
1000	0	0	11	0	0	0	11	0	0	10	0	0	0	10
1015	0	0	7	0	0	0	7	0	0	13	0	0	0	13
1030	0	0	10	0	0	0	10	0	0	13	0	0	0	13
1045	0	0	11	0	0	0	11	0	0	13	0	0	0	13
1100	0	0	18	0	0	0	18	0	0	14	0	0	0	14
1115	0	0	11	0	0	0	11	0	0	11	0	0	0	11
1130	0	0	19	0	0	0	19	0	0	9	0	0	0	9
1145	0	0	24	0	0	0	24	0	0	23	0	0	0	23
1200	0	0	18	0	0	0	18	0	0	16	0	0	0	16
1215	0	0	25	0	0	0	25	0	0	21	0	0	0	21
1230	0	0	25	0	1	0	26	1	0	25	0	1	0	27
1245	1	0	27	0	0	0	28	0	0	28	0	0	0	28
1300	0	0	24	0	0	0	24	0	0	30	0	0	0	30
1315	0	0	22	0	1	0	23	0	0	21	0	0	0	21
1330	0	0	17	0	0	0	17	0	0	22	0	1	0	23
1345	0	0	25	0	0	0	25	0	0	29	0	1	0	30
1400	0	0	16	0	0	0	16	0	0	24	0	0	0	24
1415	0	0	14	0	0	0	14	0	0	13	0	0	0	13
1430	0	0	10	0	0	0	10	0	0	17	0	0	0	17
1445	0	0	12	0	0	0	12	0	0	15	0	0	0	15
1500	0	0	17	0	0	0	17	0	0	21	0	0	0	21
1515	0	0	9	0	0	0	9	0	0	11	0	0	0	11
1530	0	0	7	0	0	0	7	0	0	17	0	0	0	17
1545	0	0	13	0	0	0	13	0	0	11	0	0	0	11
1600	0	0	10	0	0	0	10	0	0	7	0	0	0	7
1615	0	0	12	0	0	0	12	0	0	12	0	0	0	12
1630	0	0	6	0	0	0	6	0	0	15	0	0	0	15
1645	0	0	9	0	0	0	9	0	0	8	0	0	0	8
1700	0	0	10	0	0	0	10	0	0	11	0	0	0	11
1715	0	0	12	0	0	0	12	0	0	13	0	0	0	13
1730	1	0	8	0	0	0	9	0	0	10	0	0	0	10
1745	0	0	11	0	0	0	11	0	0	10	0	0	0	10
1800	0	0	9	0	0	0	9	0	0	9	0	0	0	9
1815	0	0	13	0	1	0	14	0	0	6	0	0	0	6
1830	0	0	13	0	0	0	13	0	0	10	0	1	0	11
1845	0	0	11	0	0	0	11	0	0	9	0	1	0	10
1900	0	0	5	0	0	0	5	0	0	12	0	0	0	12
1915	0	0	8	0	0	0	8	0	0	5	0	0	0	5
1930	0	0	6	0	1	0	7	0	0	8	0	0	0	8
1945	0	0	5	0	0	0	5	0	0	4	0	0	0	4
2000	0	0	4	0	0	0	4	0	0	5	0	0	0	5
2015	0	0	5	0	0	0	5	0	0	7	0	0	0	7
2030	0	0	1	0	0	0	1	0	0	5	0	0	0	5
2045	0	0	0	0	0	0	0	0	0	2	0	0	0	2
2100	0	0	2	0	0	0	2	0	0	3	0	0	0	3
2115	0	0	3	0	0	0	3	0	0	5	0	0	0	5
2130	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2145	0	0	2	0	0	0	2	0	0	0	0	0	0	0
2200	0	0	0	0	0	0	0	0	0	2	0	0	0	2
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2245	0	0	1	0	0	0	1	0	0	0	0	0	0	0
2300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2315	0	0	2	0	0	0	2	0	0	3	0	0	0	3
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	1	0	0	0	1	0	0	1	0	0	0	1
Total	4	0	766	0	8	1	779	3	1	766	0	12	1	783

Volume Report

Job 807_010_BSC_ATR B
Area Needham, MA
Location Driveway, north of 2nd Ave



Saturday, October 30, 2021

Time	NB Bike	NB Motorcycle	NB Automobile	NB Bus	NB Single-Unit Truck	NB Multi-Unit Truck	NB Total Volume	SB Bike	SB Motorcycle	SB Automobile	SB Bus	SB Single-Unit Truck	SB Multi-Unit Truck	SB Total Volume
0000	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0015	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0030	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0045	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0100	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0115	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0130	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0145	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0230	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0245	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0330	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0400	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0415	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0430	0	0	2	0	0	0	2	0	0	0	0	0	0	0
0445	0	0	1	0	0	0	1	0	0	0	0	0	0	0
0500	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0515	0	0	0	0	0	0	0	0	0	1	0	0	0	1
0530	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0545	0	0	0	0	0	0	0	0	0	0	0	0	0	0
0600	0	0	1	0	0	1	2	0	0	1	0	1	0	2
0615	0	0	0	0	0	0	0	0	0	0	0	1	0	1
0630	0	0	3	0	0	0	3	0	0	3	0	0	0	3
0645	0	0	1	0	0	0	1	0	0	2	0	0	0	2
0700	0	0	4	0	0	0	4	0	0	0	0	0	0	0
0715	0	0	4	0	0	0	4	0	0	3	0	0	0	3
0730	0	0	5	0	0	0	5	0	0	7	0	0	0	7
0745	0	0	6	0	0	0	6	0	0	3	0	0	0	3
0800	0	0	6	0	0	0	6	0	0	2	0	0	0	2
0815	0	0	6	0	0	0	6	0	0	5	0	0	0	5
0830	0	0	7	0	0	0	7	0	0	6	0	0	0	6
0845	0	0	12	0	0	0	12	0	0	7	0	0	0	7
0900	0	0	11	0	0	0	11	0	0	6	0	0	0	6
0915	0	0	11	0	0	0	11	0	0	6	0	1	0	7
0930	0	0	7	0	0	0	7	0	0	10	0	0	0	10
0945	0	0	13	0	0	0	13	0	0	11	0	0	0	11
1000	0	0	15	0	0	0	15	0	0	8	0	0	0	8
1015	0	0	11	0	1	0	12	0	0	9	0	0	0	9
1030	0	0	9	0	1	0	10	0	0	11	0	0	0	11
1045	0	0	12	0	0	0	12	0	0	11	0	0	0	11
1100	0	0	23	0	1	0	24	0	0	11	0	0	0	11
1115	0	0	8	0	0	0	8	0	0	11	0	0	0	11
1130	0	0	11	0	0	0	11	0	0	11	0	1	0	12
1145	0	0	7	0	0	0	7	0	0	13	0	0	0	13
1200	0	0	20	0	0	0	20	0	0	15	0	0	0	15
1215	0	0	19	0	0	0	19	0	0	25	0	0	0	25
1230	0	0	17	0	0	0	17	0	0	9	0	0	0	9
1245	0	0	23	0	0	0	23	0	0	22	0	0	0	22
1300	0	0	16	0	0	0	16	0	0	18	0	0	0	18
1315	0	0	18	0	0	0	18	0	0	19	0	0	0	19
1330	0	0	8	0	0	0	8	0	0	15	0	0	0	15
1345	0	0	15	0	0	0	15	0	0	18	0	0	0	18
1400	0	0	12	0	0	0	12	0	0	19	0	0	0	19
1415	0	0	5	0	0	0	5	0	0	8	0	0	0	8
1430	0	0	9	0	0	0	9	0	0	10	0	0	0	10
1445	0	0	15	0	0	0	15	0	0	16	0	0	0	16
1500	0	0	7	0	0	0	7	0	0	14	0	0	0	14
1515	0	0	15	0	0	0	15	0	0	8	0	0	0	8
1530	0	0	8	0	0	0	8	0	0	13	0	0	0	13
1545	0	0	11	0	0	0	11	0	0	12	0	0	0	12
1600	0	0	12	0	0	0	12	0	0	9	0	0	0	9
1615	0	0	7	0	1	0	8	0	0	11	0	1	0	12
1630	0	0	8	0	0	0	8	0	0	6	0	0	0	6
1645	0	0	5	0	0	0	5	0	0	6	0	0	0	6
1700	0	0	13	0	0	0	13	0	0	11	0	0	0	11
1715	0	0	8	0	0	0	8	0	0	9	0	0	0	9
1730	0	0	9	0	0	0	9	0	0	7	0	0	0	7
1745	0	0	10	0	0	0	10	0	0	7	0	0	0	7
1800	0	0	7	0	0	0	7	0	0	5	0	0	0	5
1815	0	0	7	0	0	0	7	0	0	3	0	0	0	3
1830	0	0	6	0	0	0	6	0	0	6	0	0	0	6
1845	0	0	8	0	0	0	8	0	0	9	0	0	0	9
1900	0	0	3	0	0	0	3	0	0	5	0	0	0	5
1915	0	0	5	0	0	0	5	0	0	3	0	0	0	3
1930	0	0	5	0	0	0	5	0	0	13	0	0	0	13
1945	0	0	8	0	0	0	8	0	0	9	0	0	0	9
2000	0	0	4	0	0	0	4	0	0	7	0	0	0	7
2015	0	0	1	0	0	0	1	0	0	5	0	0	0	5
2030	0	0	2	0	0	0	2	0	0	2	0	0	0	2
2045	0	0	1	0	0	0	1	0	0	2	0	0	0	2
2100	0	0	2	0	0	0	2	0	0	1	0	0	0	1
2115	0	0	2	0	0	0	2	0	0	1	0	0	0	1
2130	0	0	2	0	0	0	2	0	0	1	0	0	0	1
2145	0	0	2	0	0	0	2	0	0	4	0	0	0	4
2200	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2215	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2230	0	0	0	0	0	0	0	0	0	1	0	0	0	1
2245	0	0	1	0	0	0	1	0	0	1	0	0	0	1
2300	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2315	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2330	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2345	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	0	0	554	0	4	1	559	0	0	544	0	4	1	549

PARKING OCCUPANCY DATA AND CALCULATIONS

BOSTON
TRAFFIC DATA
PO BOX 1723, Framingham, MA 01701
Office: 978-746-1259
DataRequest@BostonTrafficData.com
www.BostonTrafficData.com

PARKING COUNT			
Start Time	Occupied Spaces (Existing Uses)	Total Spaces	Available Spaces
8:00 AM	36	97	61
8:15 AM	37	97	60
8:30 AM	40	97	57
8:45 AM	43	97	54
9:00 AM	47	97	50
9:15 AM	51	97	46
9:30 AM	49	97	48
9:45 AM	52	97	45
10:00 AM	51	97	46
10:15 AM	56	97	41
10:30 AM	49	97	48
10:45 AM	51	97	46
11:00 AM	46	97	51
11:15 AM	49	97	48
11:30 AM	52	97	45
11:45 AM	57	97	40
12:00 PM	62	97	35
12:15 PM	64	97	33
12:30 PM	70	97	27
12:45 PM	72	97	25
1:00 PM	74	97	23
1:15 PM	77	97	20
1:30 PM	75	97	22
1:45 PM	78	97	19
2:00 PM	69	97	28
2:15 PM	58	97	39
2:30 PM	56	97	41
2:45 PM	51	97	46
3:00 PM	51	97	46
3:15 PM	44	97	53
3:30 PM	43	97	54
3:45 PM	39	97	58
4:00 PM	31	97	66
4:15 PM	40	97	57
4:30 PM	36	97	61
4:45 PM	32	97	65
5:00 PM	29	97	68
5:15 PM	23	97	74
5:30 PM	26	97	71
5:45 PM	20	97	77
6:00 PM	16	97	81
6:15 PM	14	97	83
6:30 PM	16	97	81
6:45 PM	13	97	84
7:00 PM	14	97	83
7:15 PM	10	97	87
7:30 PM	11	97	86
7:45 PM	8	97	89

PEDESTRIANS Omaha Steaks Store		PEDESTRIANS Frank Webb Home		PEDESTRIANS Existing Uses		PARKING COUNT - Omaha Steaks and FW Webb Removed			Clinic Use		Golf Simulator Use		New Parking Demand			Future Parking Demand	
from Parking Lot access		from Parking Lot access				Occupied Spaces (Remaining)	Total Spaces	Available Spaces	Percent of Peak Demand	Spaces Needed	Percent of Peak Demand	Spaces Needed	Needed Spaces	Existing Uses to be Removed	Change in Parking Demand		
Walk In	Walk Out	Walk In	Walk Out	Walk In	Walk Out												
0	0	0	0	0	0	36	97	61	0.63	7		0	7	0	7	43	
0	0	1	0	1	0	36	97	61	0.63	7		0	7	-1	6	43	
1	1	0	0	1	1	39	97	58	0.63	7		0	7	-1	6	46	
0	0	2	1	2	1	41	97	56	0.63	7		0	7	-2	5	48	
0	0	1	0	1	0	46	97	51	0.93	11		0.25	10	-1	20	67	
0	0	2	2	2	2	49	97	48	0.93	11		0.25	10	-2	19	70	
0	0	0	0	0	0	49	97	48	0.93	11		0.25	10	0	21	70	
0	0	0	0	0	0	52	97	45	0.93	11		0.25	10	0	21	73	
0	0	3	1	3	1	48	97	49	0.96	11		0.25	10	-3	18	69	
0	0	0	2	0	2	56	97	41	0.96	11		0.25	10	0	21	77	
0	0	1	1	1	1	48	97	49	0.96	11		0.25	10	-1	20	69	
1	0	0	0	1	0	50	97	47	0.96	11		0.25	10	-1	20	71	
0	1	1	0	1	1	45	97	52	1	11		0.25	10	-1	20	66	
0	0	2	3	2	3	47	97	50	1	11		0.25	10	-2	19	68	
2	0	2	1	4	1	48	97	49	1	11		0.25	10	-1	17	69	
0	1	1	1	1	2	56	97	41	1	11		0.25	10	-1	20	77	
0	0	1	0	1	0	61	97	36	0.8	9		0.25	10	-1	18	80	
0	0	1	2	1	2	63	97	34	0.8	9		0.25	10	-1	18	82	
0	1	2	2	2	3	68	97	29	0.8	9		0.25	10	-2	17	87	
0	0	1	1	1	1	71	97	26	0.8	9		0.25	10	-1	18	90	
0	0	2	1	2	1	72	97	25	0.75	9		0.25	10	-2	17	91	
0	0	1	2	1	2	76	97	21	0.75	9		0.25	10	-1	18	95	
0	0	2	0	2	0	73	97	24	0.75	9		0.25	10	-2	17	92	
1	1	0	1	1	2	77	97	20	0.75	9		0.25	10	-1	18	96	
1	0	2	2	3	2	63	97	34	0.9	10		0.25	10	-3	17	83	
1	1	1	0	2	1	56	97	41	0.9	10		0.25	10	-2	18	76	
0	0	0	0	0	0	56	97	41	0.9	10		0.25	10	0	20	76	
1	0	0	2	1	2	50	97	47	0.9	10		0.25	10	-1	19	70	
2	1	0	0	2	1	49	97	48	0.89	10		0.5	19	-2	27	78	
0	1	1	1	1	2	43	97	54	0.89	10		0.5	19	-1	28	72	
0	1	2	1	2	2	41	97	56	0.89	10		0.5	19	-2	27	70	
1	1	1	1	2	2	37	97	60	0.89	10		0.5	19	-2	27	66	
0	0	1	2	1	2	40	97	57	0.74	9		0.5	19	-1	27	68	
0	1	0	1	0	2	40	97	57	0.74	9		0.5	19	0	28	68	
0	0	0	3	0	3	36	97	61	0.74	9		0.5	19	0	28	64	
0	0	0	0	0	0	32	97	65	0.74	9		0.5	19	0	28	60	
0	0	0	0	0	0	29	97	68	0.41	5		0.75	28	0	33	62	
0	0	0	0	0	0	28	97	69	0.41	5		0.75	28	0	33	61	
0	0	0	0	0	0	26	97	71	0.41	5		0.75	28	0	33	59	
0	0	0	0	0	0	20	97	77	0.41	5		0.75	28	0	33	53	
0	0	0	0	0	0	16	97	81	0.15	2		1	37	0	39	55	
0	1	0	0	0	1	14	97	83	0.15	2		1	37	0	39	53	
0	0	0	0	0	0	16	97	81	0.15	2		1	37	0	39	55	
0	0	0	0	0	0	13	97	84	0.15	2		1	37	0	39	52	
0	0	0	0	0	0	14	97	83	0			1	37	0	37	51	
0	0	0	0	0	0	10	97	87	0			1	37	0	37	47	
0	0	0	0	0	0	11	97	86	0			1	37	0	37	48	
0	0	0	0	0	0	8	97	89	0			1	37	0	37	45	
										Size: ITE Rate per 1,000 sf:	2210 4.77			Size: Employees:	10628 5		
										Spaces Needed:	11			Peak Demand: Based on 8 simulators with 4 players per unit and 5 employees	37		
										Square feet per space: Spaces Needed per Zoning:	200 12			Square feet per space: Spaces Needed per space:	150 71		
														Employees per space: Spaces Needed for employees:	3 2		
														Total Spaces Needed:	73		

BOSTON
TRAFFIC DATA
PO BOX 1723, Framingham, MA 01701
Office: 978-746-1259
DataRequest@BostonTrafficData.com
www.BostonTrafficData.com

Start Time	Occupied Spaces (Existing Users)	Total Spaces	Available Spaces
10:00 AM	35	97	62
10:15 AM	36	97	61
10:30 AM	40	97	57
10:45 AM	41	97	56
11:00 AM	40	97	57
11:15 AM	44	97	53
11:30 AM	46	97	51
11:45 AM	40	97	57
12:00 PM	43	97	54
12:15 PM	43	97	54
12:30 PM	46	97	51
12:45 PM	52	97	45
1:00 PM	50	97	47
1:15 PM	52	97	45
1:30 PM	61	97	36
1:45 PM	50	97	47
2:00 PM	42	97	55
2:15 PM	35	97	62
2:30 PM	31	97	66
2:45 PM	32	97	65
3:00 PM	30	97	67
3:15 PM	26	97	71
3:30 PM	25	97	72
3:45 PM	30	97	67
4:00 PM	25	97	72
4:15 PM	24	97	73
4:30 PM	23	97	74
4:45 PM	19	97	78
5:00 PM	18	97	79
5:15 PM	18	97	79
5:30 PM	17	97	80
5:45 PM	14	97	83
6:00 PM	13	97	84
6:15 PM	10	97	87
6:30 PM	12	97	85
6:45 PM	9	97	88
7:00 PM	12	97	85
7:15 PM	11	97	86
7:30 PM	11	97	86
7:45 PM	11	97	86
8:00 PM	11	97	86
8:15 PM	9	97	88
8:30 PM	8	97	89
8:45 PM	9	97	88
9:00 PM	6	97	91
9:15 PM	5	97	92
9:30 PM	4	97	93
9:45 PM	4	97	93

**Future
Parking
Demand**

[illegible]

		Occupied Spaces (Remaining Existing Uses)		
Walk In	Walk Out		Total Spaces	Available Spaces
2	3	33	97	64
0	1	36	97	61
4	6	36	97	61
0	0	41	97	56
5	4	35	97	62
3	1	41	97	56
1	1	45	97	52
3	5	37	97	60
4	1	39	97	58
3	3	40	97	57
3	2	43	97	54
0	3	52	97	45
5	1	45	97	52
8	2	44	97	53
2	4	59	97	38
3	1	47	97	50
5	7	37	97	60
3	4	32	97	65
2	3	29	97	68
0	5	29	97	68
0	4	30	97	67
2	1	24	97	73
0	1	25	97	72
0	0	30	97	67
0	0	25	97	72
1	0	23	97	74
3	3	20	97	77
2	1	17	97	80
0	0	18	97	79
0	1	18	97	79
0	0	17	97	80
1	1	13	97	84
0	2	13	97	84
0	0	10	97	87
1	0	11	97	86
0	0	9	97	88
1	0	11	97	86
0	0	11	97	86
0	0	11	97	86
0	0	11	97	86
0	0	9	97	88
0	0	8	97	89
0	0	9	97	88
0	0	6	97	91
0	0	5	97	92
0	0	4	97	93
0	0	4	97	93

[illegible][illegible][illegible]

Future Parking Demand

Size:	10628
Employees:	5
Peak Demand:	37

Square feet per space	150
Spaces Needed for spaces	71

Employees per spa	3
Spaces Needed for em	2
Total Spaces Need	73



Town of Needham
Building Department
500 Dedham Avenue
Needham, MA 02492

Phone: 781-455-7550
Fax: 781-453-2510
www.needhamma.gov

December 29, 2021

Planning Board
Town of Needham
500 Dedham Street
Needham, MA 02492

Re: Needham Gateway Shopping Center- Carbon Health

Dear Board Members:

Both Lee Newman and I have recently met via zoom with Rick Mann, counsel for Needham Gateway, LLC, the owner/operator of the Needham Gateway Shopping Center at 100-120 Highland Avenue, concerning a prospective tenant for the Center.

According to Attorney Mann:

- A letter of intent has been executed with Carbon Health Medical Group of Florida, PA for approximately 3,000 square feet of space in the building in the Center located at 120 Highland Avenue.
- Carbon Health intends to use the premises for the provision of primary and walk-in medical care.
- Carbon Health is a Florida professional corporation qualified and registered in Massachusetts and is wholly owned and controlled by a single physician.
- Carbon Health intends to have a maximum of eight (8) medical and non-medical staff on premises at any one time, including no more than two licensed physicians.
- The facility will not be required to be licensed as a clinic under GL Chapter 111, Section 51.

Attorney Mann has requested my interpretation of certain Zoning By-Law provisions applicable to the proposed use and my consequent determination of the proper characterization of the proposed use under the Zoning By-Law.

It is my determination that the proposed use constitutes a "professional office" which is allowed as a matter of right in the Highland Commercial-128 District in which the premises are located.

I base this determination on the following analysis of the applicable Zoning By-Law provisions.

Section 3.2.5.1 includes the following as permitted uses in the Highland Commercial-128 District:

"Professional, business or administrative office, but not including a medical clinic or Medical Services Building or Group Practices or alternative medicine practices, physical therapy, and

wellness treatment facilities including, but not limited to, acupuncture, yoga, chiropractic and/or nutrition services, **all as defined in Sections 1.3 and 3.2.4.1.**" (emphasis added)

Section 1.3 of the Zoning By-Law defines a "Professional" as follows:

"Professional – a person who by education and experience is a member of a recognized profession such as a **physician**, dentist, architect, attorney, artist or engineer." (emphasis added)

The word "Professional" and "Non-Group Practice" are further defined in Section 3.2.4.1 (c) of the Zoning By-Law as follows:

"Professional" shall include professional **medical**, surgical, psychiatric, dental, orthodontic or psychologist practice by a group of two or fewer **such professionals** ("Non-group Practice")." (emphasis added)

A "Group Practice" is defined in Section 3.2.3.1. (c) as follows

"... medical, surgical, psychiatric, dental, orthodontic, or psychologist group practices comprised of **three or more** such professionals (hereinafter "Group Practices")" (emphasis added)

A "medical clinic " is defined in Section 1.3 as follows:

" Medical Clinic – An institution or facility providing medical, surgical, dental, restorative or mental hygiene services to persons not accommodated overnight therein, **under license as a clinic under Massachusetts General Laws**, whether or not affiliated with a hospital or other health care facility." (emphasis added)

A "Medical Services Building" is defined in Section 1.3 as follows:

"Medical Services Building – Premises with occupancy **limited to** doctor's offices, dentist's offices, orthodontic services, psychiatric, psychological and other mental health services, radiology and laboratory services, sale, and repair of medical devices and equipment or other health care or health care services, whether or not owned or affiliated with a hospital, but not including those licensed as a clinic." (emphasis added)

In reaching my determination, I have necessarily concluded that a "professional" in this context includes only a licensed physician and not a licensed nurse or other licensed para-professional. In this regard, it is telling that reference to nurses and paraprofessionals is conspicuously absent from the above definitions. My interpretation is, therefore, wholly consistent with the actual language of the Zoning By-Law cited above. It is also supported by the fact that elsewhere in the Zoning By-Law where there was an intent to include such other licensed parties, the By-Law explicitly so states (e.g. Section 3.6.7 (c) (1) referring to "physician, physician's assistant and nurse practitioner").

Based on the foregoing analysis, Carbon Health's proposed use fits the definition of a "Professional Office" and is not a Group Practice, Medical Clinic or a Medical Services Building, nor is it an alternative medicine practice, physical therapy or wellness treatment facility as defined. Accordingly, as a "Professional Office," Carbon Health's proposed use, as described herein, is permitted as a matter of right in the Highland Commercial - 128 District in which the Center is located.

Very truly yours,

David A. Roche, Building Commissioner

cc: Lee Newman

MEMORANDUM

CLIENT-MATTER NUMBER
125408-0101

TO: Carbon Health

FROM: Foley & Lardner LLP

DATE: January 19, 2022

RE: Massachusetts Clinic Licensure Requirement

INTRODUCTION AND EXECUTIVE SUMMARY

Carbon Health Technologies, Inc. (“*Carbon Health*”) asked Foley and Lardner, LLP (“*Foley*”) to provide a memorandum analyzing whether Carbon Health Medical Group of Florida, P.A., a Florida professional corporation (“*Carbon Health Medical Group*”) must be licensed as a clinic under Massachusetts General Laws Chapter 111, Section 51. This legal analysis addresses compliance of Carbon Health Medical Group’s structure with the applicable provisions of the Massachusetts clinic license requirements, codified at Massachusetts General Laws Chapter 111, Section 51 and the Code of Massachusetts Regulations Title 105, Chapter 140.101 (the “*Massachusetts Clinic License Requirement*”) and the so-called “group practice” exception to the Massachusetts Clinic Licensure Requirement codified at Massachusetts General Laws Chapter 111, Section 52 and the Code of Massachusetts Regulations Title 105, Chapter 140.020 (the “*Group Practice Exception*”). We have not addressed any other federal or state laws.

The following discussion is based on the facts and legal assumptions that are set forth in this Memorandum (collectively, the “*Assumptions*”). Each factual statement that follows is intended to be an Assumption. Our analysis is based on our interviews with Meghna Parikh, Esq., Healthcare Regulatory and Transaction Counsel at Carbon Health and review of Carbon Health Medical Group agreements and documents relating to the governance of Carbon Health Medical Group that were made available to us by Carbon Health (the “*Agreements*”). These Agreements, materials and interviews are collectively referred to herein as the “*Information*.”

For the reasons discussed herein, we believe Carbon Health Medical Group is structured to comply with the Group Practice Exception to the Massachusetts Clinic Licensure Requirement, and we believe Carbon Health Medical Group would have a legally defensible position that, based on its ownership, Carbon Health Medical Group would qualify for the Group Practice Exception and not be required to be licensed as a clinic under the Massachusetts Clinic License Requirement.

FACTUAL ASSUMPTIONS

1. Carbon Health Medical Group of Florida, P.A., is a Florida professional service corporation.
2. Sujal Mandavia, M.D. is a physician licensed to practice medicine in the following states: Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Iowa, Kansas, Louisiana, Maryland, Michigan, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Rhode Island, Texas, Utah, Washington, and Wisconsin. Dr. Mandavia is also pending licensure in Massachusetts.
3. Sujal Mandavia, M.D. is the sole shareholder of Carbon Health Medical Group.
4. Sujal Mandavia, M.D. is the President, Secretary, and Treasurer of Carbon Health Medical Group.
5. Sujal Mandavia, M.D. is a Director of Carbon Health Medical Group.
6. Ayobami Olufadeji, M.D. is a physician licensed to practice medicine in Massachusetts.
7. Ayobami Olufadeji, M.D. is a Director of Carbon Health Medical Group.
8. Carbon Health Medical Group has a contractual arrangement with Carbon Health for Carbon Health to provide certain non-clinical and administrative physician practice management services to Carbon Health Medical Group.
9. All medical services provided to patients located in Massachusetts are performed by practitioners licensed by the Commonwealth of Massachusetts.
10. All governing documents of Carbon Health Medical Group and all agreements between Carbon Health Medical Group and Carbon Health provide that Carbon Health Medical Group is wholly owned and controlled by Sujal Mandavia, M.D.
11. In the Commonwealth of Massachusetts, Carbon Health Medical Group does not (and does not plan to in the future) advertise, announce, establish, or maintain itself under a name which includes the word “clinic,” “dispensary,” or “institute” or suggest that “ambulatory medical, surgical, dental, physical rehabilitation, or mental health services” are rendered therein.

We have made no independent investigation of any information provided to us by Carbon Health Medical Group, and have relied on that information as true.

Our legal analysis and conclusions are qualified to the extent that the performance or actions of Carbon Health Medical Group or its employees, contractors, or affiliates are inconsistent with the requirements described in the Agreements. In our examination of the Information, we have assumed that the description of services provided by the applicable parties are accurate and encompass the full range of services actually provided.

ANALYSIS

Massachusetts requires certain health care facilities or providers to be licensed as a clinic,¹ but there is a statutory exception to the clinic licensure requirement commonly referred to as the “Group Practice Exception.” Under the applicable statute, the Group Practice Exception applies to solo or group practices *wholly owned and controlled by one or more practitioners associated with the practice*.² To meet this exception, the entity must also not advertise, announce, establish, or maintain itself under a name which includes the word “clinic,” “dispensary,” or “institute” or suggest that “ambulatory medical, surgical, dental, physical rehabilitation, or mental health services are rendered therein.”³

Under the Massachusetts Professional Corporation Law, a Massachusetts professional corporation or a foreign professional corporation may be owned by one or more physicians licensed by the Massachusetts Board of Registration in Medicine (“MA BORIM”) or the regulating medical board of another state.⁴

Here, Sujal Mandavia, M.D., a physician licensed in several states, is the sole shareholder and officer of Carbon Health Medical Group. Dr. Mandavia also serves as one of two directors of Carbon Health Medical Group with the only other director being Ayobami Olufadeji, M.D., a Massachusetts-licensed physician. Additionally, we have been informed by Carbon Health that Drs. Mandavia and Olufadeji, maintain an active and meaningful engagement in the operations and clinical oversight of Carbon Health Medical Group’s operations in Massachusetts and maintain control over the following decisions and directives: (1) Assuming responsibility for the care of patients, treating any patient, or providing any clinical, medical, or healthcare service; (2)

¹ See 105 CMR 140.101 (requiring “every entity within the definition of ‘clinic’ in M.G.L. c. 111, § 52 . . . to obtain a clinic license from the Department covering all locations at which the clinic provides services).

² Mass. Gen. Laws Ann. Ch. 111, §52, which provides:

“Clinic” means “any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained for the purpose of providing ambulatory medical, surgical, dental, physical rehabilitation, or mental health services. In addition, “clinic” shall include any entity, however organized, whether conducted for profit or not for profit, which is advertised, announced, established, or maintained under a name which includes the word “clinic”, “dispensary”, or “institute”, and which suggests that ambulatory medical, surgical, dental, physical rehabilitation, or mental health services are rendered therein. With respect to any entity which is not advertised, announced, established, or maintained under one of the names in the preceding sentence, “clinic” shall not include a medical office building, or one or more practitioners engaged in a solo or group practice, whether conducted for profit or not for profit, and however organized, so long as such practice is *wholly owned and controlled by one or more of the practitioners so associated*, or, in the case of a not for profit organization, its only members are one or more of the practitioners so associated or a clinic established solely to provide service to employees or students of such corporation or institution.” (emphasis added)).

See also 105 CMR 140.

³ Mass. Gen. Laws Ann. Ch. 111, §52.

⁴ See Mass. Gen. Laws. Ann. Ch. 156A §10(a); See Mass. Gen. Laws. Ann. Ch. 156A §17(b).

Setting the practice's schedule of charges or fees; (3) Serving as the named party to whom the practice bills and charges are directly made payable; (4) Selecting, hiring, supervising, disciplining, or firing physicians or healthcare professionals or clinical personnel engaged by the practice; (5) Determining the nature or scope of services to be provided by the practice; (6) Selecting the clinical or medical equipment, supplies or drugs for use by the practice in the diagnosis, evaluation, or treatment of patients; (7) Determining what diagnostic tests are appropriate for a particular patient condition; (8) Determining coding and billing procedures for the practice; (9) Assuming ownership of any patient medical records; (10) Adopting policies for recordkeeping as to patient medical records, billing records, and such other records; (11) Conducting any activity that constitutes the practice of medicine; (12) Periodic auditing of patient records and of professional services to assure quality professional care; and (13) Responsibility for the professional propriety of billing and advertising or other representations including disclosure of financial interest in health care services offered to the public.

CONCLUSION

Because: (1) Carbon Health Medical Group is organized as a professional corporation; (2) all of the owners, officers, and directors of the professional corporation are physicians who are licensed to practice medicine; (3) the licensed physician owner retains ultimate authority and responsibility for the operations of the professional corporation and medical practice; (4) all clinical services provided to patients located in Massachusetts are performed by practitioners licensed by the Commonwealth of Massachusetts; and (4) Carbon Health Medical Group does not (and does not plan in the future to) advertise, announce, establish, or maintain itself under a name which includes the word "clinic," "dispensary," or "institute" or suggest that "ambulatory medical, surgical, dental, physical rehabilitation, or mental health services are rendered therein, we believe it is legally defensible to take the position that Carbon Health Medical Group meets the Group Practice Exception to the Massachusetts Clinic License Requirement.

This Memorandum assumes the facts and assumptions stated in this Memorandum are accurate. We have relied on representatives of Carbon Health in identifying the relevant facts and assumptions and have no reason to doubt the veracity of such facts or assumptions. We have not made, nor have we been asked by Carbon Health to make, an independent investigation regarding the accuracy of the facts or assumptions. Representatives of Carbon Health have reviewed all of the facts stated in this Memorandum and have confirmed their accuracy.

Our analysis on each legal issue addressed in this Memorandum represents our belief as to how the Massachusetts Department of Public Health and courts should interpret the Group Practice Exception to the Massachusetts Clinic License Requirement. Notwithstanding the foregoing, the manner in which any particular issue would be treated in any actual investigation or proceeding may depend, in part, on interpretation of previously uninterpreted law and/or on facts and circumstances particular to the situation. Accordingly, the government agencies and courts referenced above may come to different conclusions about the Group Practice Exception to the Massachusetts Clinic License Requirement, and this Memorandum is not intended to guarantee

the outcome of any governmental investigation or proceeding that may be conducted with respect to the applicability of the Group Practice Exception to Carbon Health.

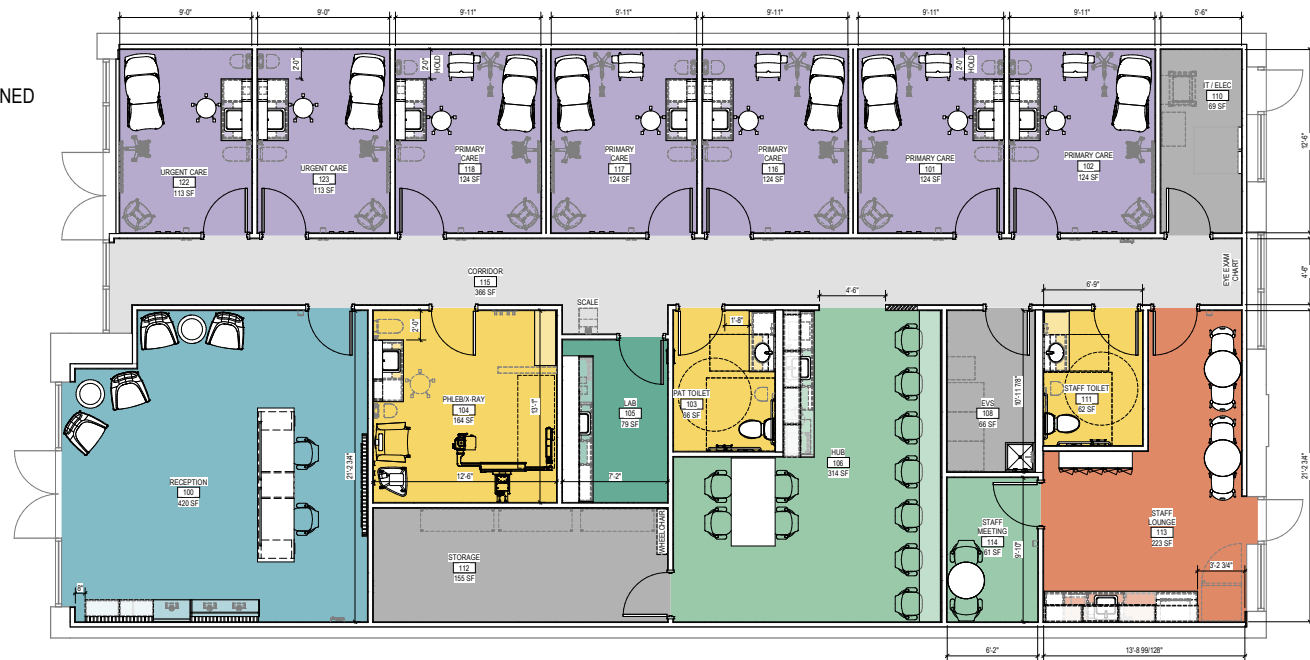
This analysis is effective only as of the date hereof. We do not assume responsibility for updating this analysis as of any subsequent date, and we assume no responsibility for advising Carbon Health of any changes with respect to any matters described in this analysis that may occur, or facts that may come to our attention, subsequent to the date hereof.

STRATEGIES:

- 5 PRIMARY CARE, 2 URGENT CARE
- AMPLE STORAGE SPACE
- PHLEBOTOMY AND X-RAY ROOM COMBINED

TEST FIT LEGEND

PRIMARY CARE	5
URGENT CARE	2
PHLEBOTOMY/ X-RAY	1
HUB	1
LAB	1
TOILETS	1
STAFF LOUNGE	1
STAFF MEETING	1
EVS	1
STORAGE	1
IT / ELEC	1
CORRIDOR	1
RECEPTION	1



**TOWN OF NEEDHAM
MASSACHUSETTS**



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

PLANNING BOARD

**FURTHER
APPLICATION FOR SITE PLAN REVIEW**

Project Determination: (circle one)

Major Project

Minor Project

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

Location of Property 100 and 120 HIGHLAND AVENUE, NEEDHAM, MA
Name of Applicant NEEDHAM GATEWAY, LLC and Carbon Health Medical Group of Florida, PA
Applicant's Address 66 Cranberry Lane, Needham, MA 02492 300 California St. (Suite 700)
Phone Number 781-910-7933 San Francisco, CA 94104
Phone Number: 949-351-1757

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

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

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

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

Professional Office (Medical)

SEE ATTACHED RIDER A.

Signature of Applicant (or representative) NEEDHAM GATEWAY, LLC Carbon Health Medical Group of Florida, PA
Address if not applicant Michael Moskowitz By: Alison Hartley
Telephone # 781-910-7933 MANAGER Title: 7F363BA28773437...
Owner's permission if other than applicant Elizabeth Berejick Tel No. Carbon Health Technologies, Manager of Carbon Health Medical Group of Florida P.A.
Trustee of BMI Realty Trust

SUMMARY OF PLANNING BOARD ACTION

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

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

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

VIA EMAIL

February 18, 2022
Town of Needham
Planning Board
c/o Planning Department
50 Dedham Avenue
Needham, MA 02492
Attn: Lee Newman, Director

Re: Modification to Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 For Property at 100-120 Highland Avenue, Needham, MA (the "Center")

Dear Board Members:

Reference is made to the Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 filed with the Planning Board by Needham Gateway, LLC and Carbon Health Medical Group of Florida PA (together, the "Co-Applicants") seeking, among other relief, the approval of a proposed use for the provision of primary and walk-in medical care by Carbon Health Medical Group of Florida, PA (the "Carbon Health Application"). Wherever the term "Applicant" is used in the Carbon Health Application it shall be deemed to mean the Co-Applicants unless the context requires otherwise.

The analysis utilized to determine the extent of the parking waiver requested in the Carbon Health Application was based on the assumed continued existence of 97 parking spaces for the Center. Needham Gateway, LLC has recently proposed the addition of a new dumpster enclosure in the Center's parking lot containing three additional dumpsters for disposal of cardboard products only. The location of the proposed enclosure will eliminate one of the existing 97 parking spaces serving the Center serving the Center, leaving 96 spaces to serve the Center.

Based on this assumed reduction, the Co-Applicants hereby modify the Carbon Health Application to request the same waiver as initially requested in the original Carbon Health Application, but based on the assumption of 96 parking spaces versus 97 parking spaces provided at the Center. A revised Parking Study by BSC Group will be submitted to the Planning Board prior to the hearing date which will analyze the effect of this reduction in parking spaces on the original conclusions contained in BSC Group's Parking Study.

Thank you for your cooperation in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'R. S. Mann', with a long horizontal flourish extending to the right.

Richard S. Mann, Esq.
On Behalf of Co-Applicants

cc: Michael Moskowitz
Adam Balthrop, Esq.

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

VIA EMAIL
February 28, 2022
Town of Needham
Planning Board
c/o Planning Department
50 Dedham Avenue
Needham, MA 02492
Attn: Lee Newman, Director

Re: Supplement to Carbon Health Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 For Property at 100-120 Highland Avenue, Needham, MA

Dear Board Members:

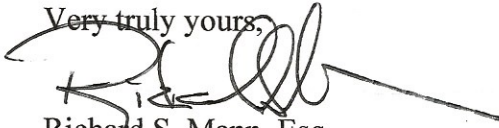
Reference is made to the Application for Amendment to Major Project Site Plan Special Permit No. 2005-07 filed with the Planning Board by Needham Gateway, LLC and Carbon Health Medical Group of Florida PA (together, the "Co-Applicants") seeking, among other relief, the approval of a proposed use for the provision of primary and walk-in medical care by Carbon Health Medical Group of Florida, PA (the "Carbon Health Application").

Attached please find the following items submitted as a supplement to the Carbon Health Application:

1. Letter from BSC Group dated February 28, 2022 updating November 19, 2021 previous Parking Evaluation; and
2. GPS Area Photo showing properties abutting Needham Gateway Center.

Thank you for your cooperation in this matter.

Very truly yours,



Richard S. Mann, Esq.
On Behalf of Co-Applicants

cc: Michael Moskowitz
Adam Balthrop, Esq.

**THE LAW OFFICE OF
RICHARD S. MANN**
ATTORNEY

845 WASHINGTON STREET
SUITE 501
NEWTON, MA 02460

RICHARD S. MANN, ESQ.
TEL: 617-771-3361
RMANN@RICKMANNLAW.COM

March 14, 2022

Lee Newman, Director
Planning Department
50 Dedham Avenue
Needham, MA 02492

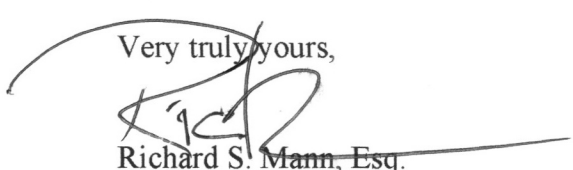
Re: SP Amendment Application filed by Needham Gateway, LLC and Carbon Health Medical Group, PA ("Carbon Health")-120 Highland Avenue

Dear Lee:

After our informal Planning Board discussion of the Carbon Health application on January 4, Chairman Alpert correctly pointed out that the Foreign Corporation Certificate of Registration filed for Carbon Health with the Massachusetts Secretary of State describes the corporation's activities conducted in Massachusetts only as "Lab Services." Over the past many weeks, Carbon Health has been attempting to file an amendment to this Certificate of Registration to include primary care and walk-in medical care as part of an updated description of the corporation's activities.

Unfortunately, the Secretary of State's office requires a hard copy of a Certificate of Licensure from the Mass. Board of Registration in Medicine for Carbon Health's physician shareholder, Dr. Sujal Mandavia, which has been slow in coming for no apparent reason other than bureaucracy. Attached is proof of Dr. Mandavia's licensure in Massachusetts which was also included with our Special Permit application. While it may take a while longer to obtain the Certificate from the Board of Registration in Medicine, please be assured that as soon as it is obtained the amendment to the Certificate of Registration will be filed with the Secretary of State's office and I will promptly send you evidence of the filing.

Very truly yours,



Richard S. Mann, Esq.



Commonwealth of Massachusetts
BOARD OF REGISTRATION IN MEDICINE

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Accessibility

[Back to Search Results](#)

Physician Profile

Sujal S. Mandavia, M.D.

This profile is being updated and will be available on 2/19/2022.

[What does this mean?](#)

License Number	291039
License Status	Active
License Issue Date	1/20/2022
License Expiration Date	8/6/2022
NPI Number	1992791164

Instructions for obtaining public information about a physician are available at our [Public Information page](#). Questions about a physician's Profile may be submitted to ma.profiles@state.ma.us. You may also contact the Massachusetts Board of Registration in Medicine, 200 Harvard Mill Square, Suite 330, Wakefield, MA 01880. Phone 781-876-8200 for public information about a physician or questions about a physician's Profile. Detailed information about Massachusetts Board disciplinary actions on physicians may be found at our [Disciplinary and Other Board Action page](#).

[Privacy Policy](#) [Terms of Use](#) [Accessibility](#) [Contact Us](#)

FEBRUARY 28, 2022

The Law Office of Richard S. Mann
Attn: Rick Mann
845 Washington Street
Newton, MA 02460
RE: 100 Highland Avenue, Needham, MA

Dear Mr. Mann,

The BSC Group understands that at the February 15, 2022 meeting of the Needham Planning Board, the proposed site plan was modified to reduce the total existing number of parking spaces by one, to allow the relocation of an existing dumpster enclosure. This reduction of one parking space reduces the total number of existing parking from 97 spaces to 96 spaces.

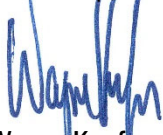
We have reviewed our Parking Evaluation memorandum for the project site dated November 19, 2021 to assess whether this reduction of parking impacts the conclusions of our memorandum.

The Parking Evaluation memorandum evaluates the existing and future parking demand using a three-step process. The steps included; conduct a parking study to determine the existing parking demand on the site, collect customer/pedestrian data for the uses to be replaced and estimate the parking demand for the new uses based on available industry data and anticipated operational information. This evaluation lead to a peak existing occupancy of 61 total spaces and an expected peak demand with the proposed change of uses of 96, which occurs between 1:00 pm and 2:00 pm on a weekday.

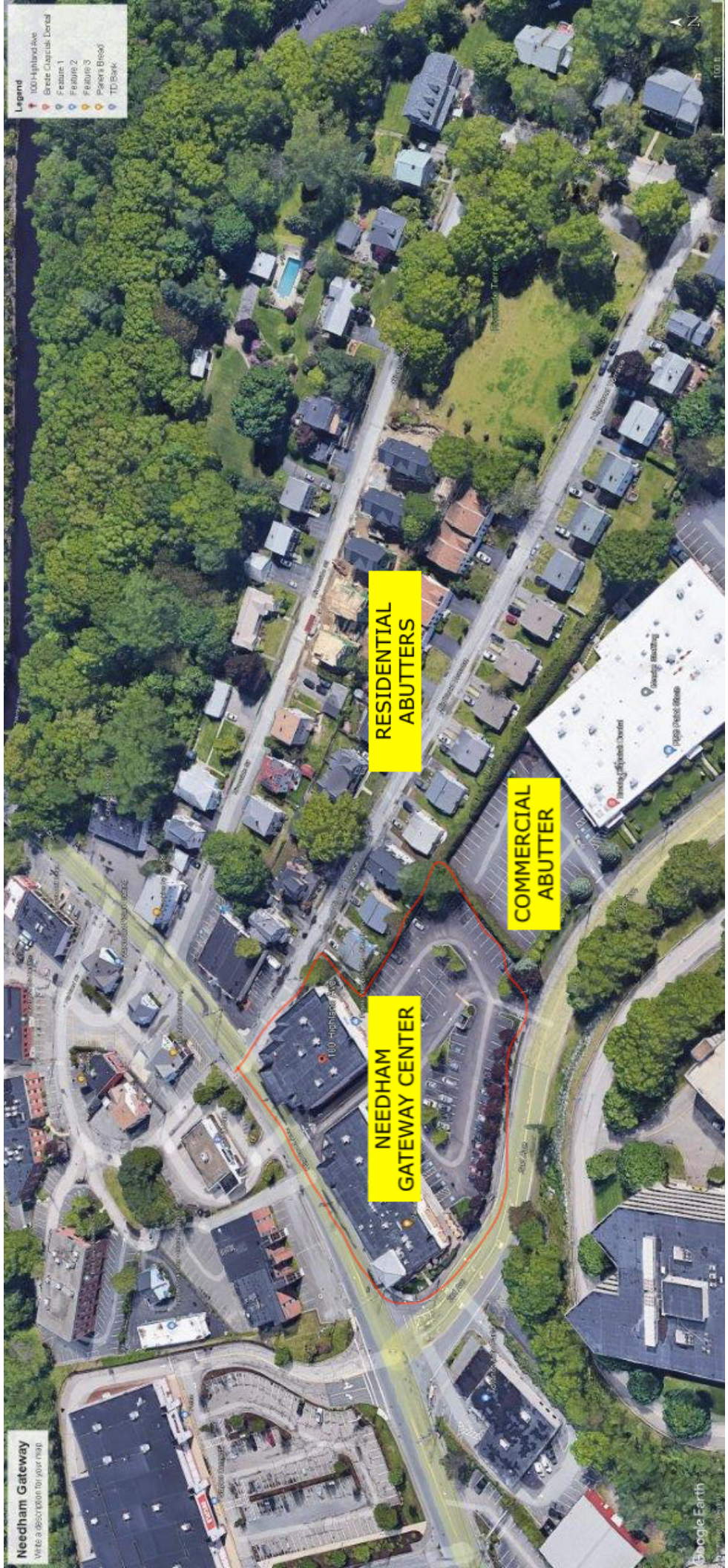
We conclude that the reduction of one existing parking space to a total available parking count of 96 will accommodate the expected peak demand of the proposed change of uses.

Sincerely,

BSC Group, Inc.



Wayne Keefner, PE, PTOE, LEED AP
Senior Project Engineer



Needham Gateway
We're a description for your map.

- Legend**
- 100 Highland Ave
 - Brate Classical Dental
 - Feature 1
 - Feature 2
 - Feature 3
 - Parent's Road
 - TD Bank

**RESIDENTIAL
ABUTTERS**

**COMMERCIAL
ABUTTER**

**NEEDHAM
GATEWAY CENTER**

From: [Dennis Condon](#)
To: [Alexandra Clee](#)
Subject: RE: Request for comment - Needham Gateway - Carbon Health
Date: Friday, February 11, 2022 3:03:20 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Alex,
The Fire dept. is ok with this project.

Thanks,
Dennis

Dennis Condon
Chief of Department
Needham Fire Department
Town of Needham
(W) 781-455-7580
(C) 508-813-5107
Dcondon@needhamma.gov



Follow on Twitter: Chief Condon@NeedhamFire



Watch Needham Fire Related Videos on YouTube @ Chief Condon



From: Alexandra Clee <aclee@needhamma.gov>
Sent: Thursday, February 10, 2022 9:25 AM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Needham Gateway - Carbon Health

Re: **Carbon Health** Tenant (there is another application at same location for a separate tenant, being sent by separate email)

Dear all,

We have received the attached application materials for the proposal to lease approximately 3,275 gross square feet of floor area in the building at 120 Highland Avenue to Carbon Health Medical

Group of Florida, PA. Carbon Health intends to use the premises principally for the provision of primary and walk-in medical care and will have a maximum aggregate of eight (8) medical and non-medical staff on premises at any one time, including no more than two licensed physicians. Hours of operation are expected to be 8 AM - 8 PM, seven days a week, subject to possible change. More information can be found in the attachments.

The Planning Board has scheduled this matter for March 15, 2022. Please send your comments by Wednesday March 9, 2022 at the latest.

The documents attached for your review are as follows:

1. Application for Amendment to Major Project Special Permit No. 2005-07, with Rider A.
2. Letter from Attorney Rick S. Mann, dated January 24, 2022.
3. Physician Profile of Sujal S. Mandavia, MD.
4. Memorandum from Michael A. Santos, BSC, Group, re: Parking Evaluation, dated November 19, 2021.
5. Letter from David Roche, Needham Building Commissioner, dated December 29, 2021.
6. Floor Plan entitled "Needham MA Gateway Shops," prepared by Environments for Health Architecture, dated January 12, 2022.
7. Legal memorandum to Carbon Health, from Foley & Lardner LLP, dated January 19, 2022.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [Tara Gurge](#)
To: [Alexandra Clee](#)
Subject: FW: Request for comment - Needham Gateway - Carbon Health
Date: Thursday, February 10, 2022 11:38:05 AM
Attachments: [Date Stamped Application 1_25_2022 carbon health.pdf](#)
[Transmittal Letter.pdf](#)
[Dr. Mandavia MA. BOR Evidence of Licensure .pdf](#)
[parking study 100-120 highland ave 11.21.pdf](#)
[Letter from CM Roche to PB 12 20 2021 \(4\)-2.doc](#)
[Carbon Health Floor Plan .pdf](#)
[Legal Analysis of MA Clinic Licensure Requirement - Carbon Health \(Jan. 2022\) \(002\)-2.pdf](#)
[image002.png](#)
[image003.png](#)

Alex –

The Public Health Division conducted the review for the Carbon Health Tenant, to be located at in the building at 120 Highland Avenue, and we have no comments to share at this time.

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

Thanks,



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



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

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Thursday, February 10, 2022 9:25 AM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John

Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcdonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>

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

Subject: Request for comment - Needham Gateway - Carbon Health

Re: **Carbon Health** Tenant (there is another application at same location for a separate tenant, being sent by separate email)

Dear all,

We have received the attached application materials for the proposal to lease approximately 3,275 gross square feet of floor area in the building at 120 Highland Avenue to Carbon Health Medical Group of Florida, PA. Carbon Health intends to use the premises principally for the provision of primary and walk-in medical care and will have a maximum aggregate of eight (8) medical and non-medical staff on premises at any one time, including no more than two licensed physicians. Hours of operation are expected to be 8 AM - 8 PM, seven days a week, subject to possible change. More information can be found in the attachments.

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7. Legal memorandum to Carbon Health, from Foley & Lardner LLP, dated January 19, 2022.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: [John Schlittler](#)
To: [Alexandra Clee](#)
Subject: RE: Request for comment - Needham Gateway - Carbon Health
Date: Thursday, February 10, 2022 10:43:46 AM

The Police Department has no concerns about this project.

From: Alexandra Clee <aclee@needhamma.gov>
Sent: Thursday, February 10, 2022 9:25 AM
To: David Roche <droche@needhamma.gov>; Thomas Ryder <tryder@needhamma.gov>; John Schlittler <JSchlittler@needhamma.gov>; Dennis Condon <DCondon@needhamma.gov>; Tara Gurge <TGurge@needhamma.gov>; Timothy McDonald <tmcDonald@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>
Cc: Elisa Litchman <elitchman@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Subject: Request for comment - Needham Gateway - Carbon Health

Re: **Carbon Health** Tenant (there is another application at same location for a separate tenant, being sent by separate email)

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The Planning Board has scheduled this matter for March 15, 2022. Please send your comments by Wednesday March 9, 2022 at the latest.

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Architecture, dated January 12, 2022.

7. Legal memorandum to Carbon Health, from Foley & Lardner LLP, dated January 19, 2022.

Thank you, alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov



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

March 10, 2022

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

RE: Amendment to Major Project Special Permit No. 2005-07
100-120 Highland Avenue- Needham Gateway Carbon Health

Dear Members of the Board,

The Department of Public Works has completed its review of the above referenced request Amendment to a Special Permit. The applicant requests this amendment to convert building space and allow for Carbon Health Medical Group to occupy the facility.

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

1. Application for Amendment to Major Project Special Permit No. 2005-07, with Rider A.
2. Letter from Attorney Rick S. Mann, dated January 24, 2022.
3. Physician Profile of Sujal S. Mandavia, MD.
4. Memorandum from Michael A. Santos, BSC, Group, re: Parking Evaluation, dated November 19, 2021.
5. Letter from David Roche, Needham Building Commissioner, dated December 29, 2021.
6. Floor Plan entitled "Needham MA Gateway Shops," prepared by Environments for Health Architecture, dated January 12, 2022.
7. Legal memorandum to Carbon Health, from Foley & Lardner LLP, dated January 19, 2022.

Our comments and recommendations are as follows:

- We have no comment or objection to the proposed amendment.

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

Truly yours,

Thomas Ryder
Acting Town Engineer

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: Fwd: March 15 PB Meeting - Carbon Health
Date: Tuesday, March 15, 2022 10:33:40 AM
Attachments: [CARBON HEALTH CLINICS.pdf](#)

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

From: Elizabeth Kaponya <liz.kaponya@gmail.com>
Sent: Monday, March 14, 2022 11:42:53 PM
To: Lee Newman <LNewman@needhamma.gov>; Janice Epstein <janiceeps@comcast.net>
Subject: March 15 PB Meeting - Carbon Health

Hi Lee,
Attached is the just downloaded Carbon Health Corporate Information identifying themselves as a "CLINIC". Health Clinics are Not Zoned at the Needham Gateway. LLC. I know David Roche signed up on this, but he is not a health care professional, as i am.

Carbon Health advertises themselves as: Covid Testing and Vaccinations, Travel Testing, Urgent Care, and Primary Care with Walk-ins. All this creates a Very Unpredictable number of patients.

Typical Visits will be on average of 2 hrs. as each Patient will be a "New Patient" and need extensive documenting - Personal Info - Medical Insurance Info needs verifying - medical history...

For such a situation, I cannot understand why a "Parking Waiver" is requested. Instead I believe a Parking Increase is needed!

Elizabeth Kaponya
27 Highland Terrace
Needham, MA 02494
TMM "J"

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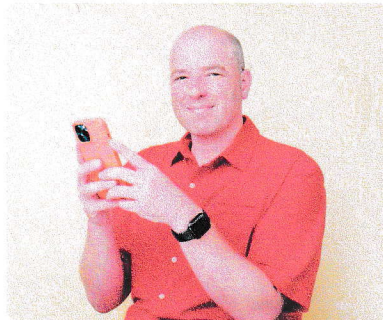
Our story

WHO WE ARE

Our leaders



CO-FOUNDER & CEO

Eren Bali

VICE CHAIRMAN

Russ FradinCO-FOUNDER, CHIEF
CLINICAL INNOVATION
OFFICER**Caesar Djavaheerian,
MD**

CHIEF BUSINESS OFFICER

An LeCHIEF TECHNOLOGY
OFFICER**Claire Hough**

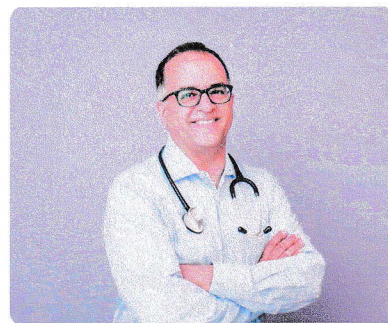
CHIEF FINANCIAL OFFICER

Jay Kim

CHIEF STRATEGY OFFICER



CHIEF GROWTH OFFICER



CHIEF MEDICAL OFFICER

& PRESIDENT HOME-BASED
CARE
Myoung Cha

Nita Sommers

Sujal Mandavia, MD

Log In

Menu



CHIEF PEOPLE OFFICER
Uzair Qadeer



CHIEF OPERATING OFFICER
Will Abbott



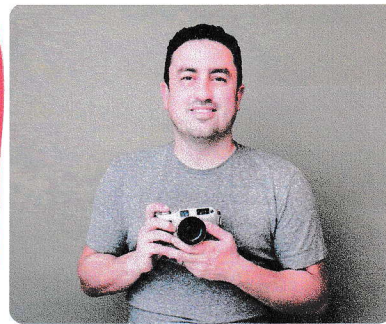
GENERAL COUNSEL
Ali Hartley



VP OF PRODUCT
Ayo Omojola



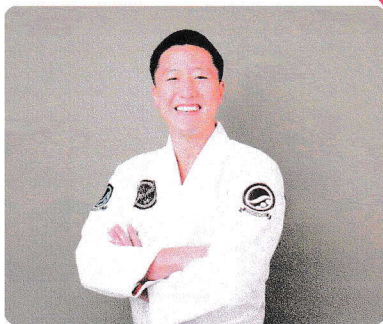
GENERAL MANAGER,
CLINICS
Carrie Douglas



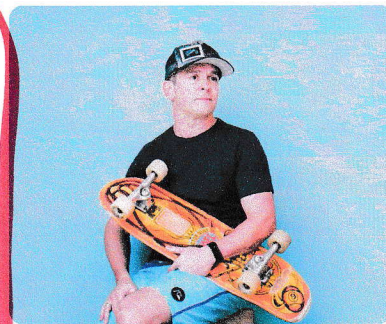
SVP OF MARKETING
Kerem Ozkay



VP OF DESIGN
Kerem Suer



MEDICAL DIRECTOR,
CLINICS
Roger Wu, MD

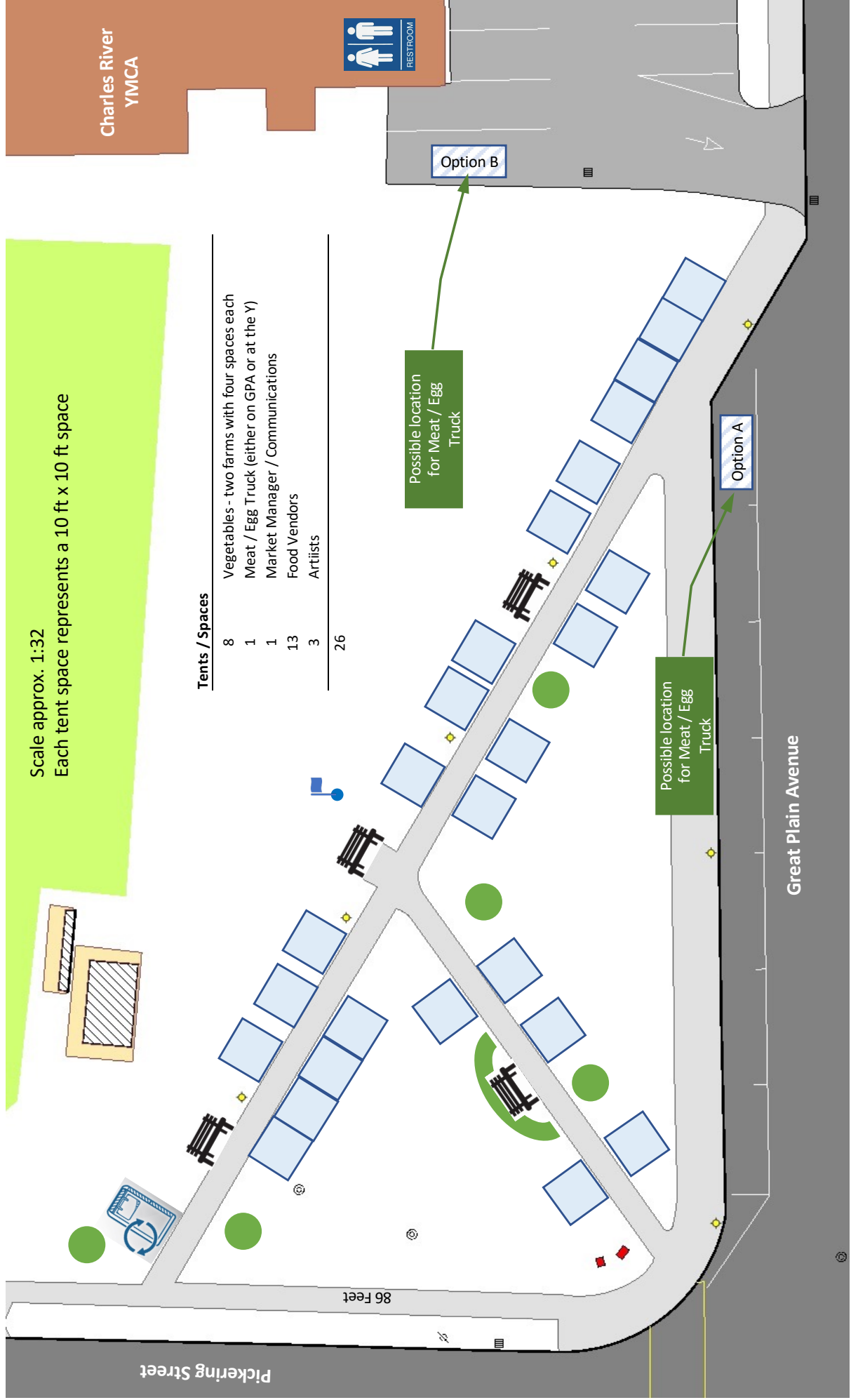


VP OF SUPPORT
Stephen Mann



Proposed Placement of Tents / Spaces on Greene's Field

March 7th, 2022



From: [Myles Tucker](#)
To: friedmanesq@aol.com; [Alexandra Clee](#); [Lee Newman](#)
Cc: [Amy Haelsen](#); [Carys Lustig](#); [Stacey Mulroy](#); fundamentallynuts@gmail.com; [Robert Lewis](#)
Subject: RE: Needham Farmers Market material for Planning Board meeting March 15 2022
Date: Friday, March 11, 2022 4:56:47 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[2022 Town-Farmer's Market Signed License Agreement Site Review.pdf](#)

Hi Jeff,

Pick up and drop off are not specified in the license, but given that parking is free on Sundays and that there's many spaces on Pickering and GPA (even if the Town places a parklet on GPA), there are no fundamental reasons that the Town would be opposed to unloading from or loading to parked vehicles on GPA or Pickering. Just know that Section 1e of the license (attached) states that vehicular traffic on the field is prohibited.

Myles

--

Myles Tucker
He/Him/His
Support Services Manager

Town of Needham
Town Hall
1471 Highland Avenue
Needham, MA 02492
Office: 781-455-7500, Extension 204
Cell: 774-893-3313
www.needhamma.gov



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From: friedmanesq@aol.com <friedmanesq@aol.com>
Sent: Friday, March 11, 2022 6:28 AM
To: Myles Tucker <mtucker@needhamma.gov>; Alexandra Clee <aclee@needhamma.gov>; Lee Newman <LNewman@needhamma.gov>
Cc: Amy Haelsen <ahaelsen@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>; Stacey Mulroy <smulroy@needhamma.gov>; fundamentallynuts@gmail.com
Subject: Re: Needham Farmers Market material for Planning Board meeting March 15 2022

Hi Myles,

As stated in my March 8th email to you, I told the Planning Board on March 1st the proposed, NFM vendor procedures during setup to unload their product and tents at Greene's Field from Great Plain Ave. and Pickering Street. These are the same drop-off procedures that NFM vendors previously used at Garrity's Way from both Chapel Street and Highland Ave. Are these drop-off procedures acceptable to the Town at Greene's Field? The Planning Board wanted to know for its March 15th hearing.

Thanks,
Jeff

Jeff Friedman
President, Needham Farmers Market

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

From: Myles Tucker <mtucker@needhamma.gov>
To: Alexandra Clee <aclee@needhamma.gov>; 'Lisa Cherbuliez' <lisa.cherbuliez@gmail.com>; Lee Newman <LNewman@needhamma.gov>
Cc: Friedman Jeff (Kim) <FriedmanEsq@aol.com>; Amy Haelsen <ahaelsen@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>; Stacey Mulroy <smulroy@needhamma.gov>
Sent: Wed, Mar 9, 2022 4:35 pm
Subject: RE: Needham Farmers Market material for Planning Board meeting March 15 2022

Hi All,

From the OTM standpoint, we would like to wait until the Y responds before considering additional discussion on other alternatives. The use of their space for parking/power would be the most ideal scenario moving forward, as the Town is still considering the use of the GPA parking spots as a parklet.

--

Myles Tucker
He/Him/His
Support Services Manager

Town of Needham
Town Hall
1471 Highland Avenue
Needham, MA 02492
Office: 781-455-7500, Extension 204
Cell: 774-893-3313
www.needhamma.gov



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From: Alexandra Clee <aclee@needhamma.gov>
Sent: Wednesday, March 9, 2022 3:32 PM
To: 'Lisa Cherbuliez' <lisa.cherbuliez@gmail.com>; Lee Newman <LNewman@needhamma.gov>
Cc: Friedman Jeff (Kim) <FriedmanEsq@aol.com>; Myles Tucker <mtucker@needhamma.gov>; Amy Haelsen <ahaelsen@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>; Stacey Mulroy <smulroy@needhamma.gov>

Subject: RE: Needham Farmers Market material for Planning Board meeting March 15 2022

Received, thank you. I will add to the Board's packets for March 15.

Alex.

Alexandra Clee
Assistant Town Planner
Needham, MA
781-455-7550 ext. 271
www.needhamma.gov

From: Lisa Cherbuliez <lisa.cherbuliez@gmail.com>

Sent: Tuesday, March 8, 2022 9:26 PM

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

Cc: Friedman Jeff (Kim) <FriedmanEsq@aol.com>; Myles Tucker <mtucker@needhamma.gov>; Amy Haelsen <ahaelsen@needhamma.gov>; Carys Lustig <clustig@needhamma.gov>; Stacey Mulroy <smulroy@needhamma.gov>

Subject: Needham Farmers Market material for Planning Board meeting March 15 2022

Hi Alex,

As follow up to the Planning Board meeting on March 2, attached is a refined market map showing spots for 16 food vendors, 3 artists, and the Market Manager given lamp posts, benches and plantings. The area used by the Market is the same as presented on March 2nd, covering 8,680 square feet per Lee Newman's instructions for how to calculate square footage.

We are working with the Y to finalize a bathroom agreement. We await the Town Manager's approval that we can block off a spot for Chestnut Farm (meat vendor) to park on Great Plain Avenue where the parklet is or next to it or from the Y for Chestnut Farm to park on the end of the Y's parking lot; both options are shown on the map.

Please disseminate this to the Planning Board for the March 15 meeting. We look forward to speaking with you then.

Lisa and the Farmers Market

From: friedmanesq@aol.com
To: [Alexandra Clee](#); [Lee Newman](#)
Cc: fundamentallynuts@gmail.com
Subject: Needham Farmers Market - Special Permit Application
Date: Monday, March 14, 2022 10:50:46 PM

Hi Alex and Lee,

Last Friday, Myles Tucker (Town Manager's Office) emailed me that the Town had no objection to NFM's vendor drop-off and pickup procedures for their product and tents from/at Great Plain Ave. and Pickering Street, next to the walkways. I emailed Myles that NFM will fully comply with paragraph 1e of the License Agreement that there will not be any vehicular traffic on and not any vehicular access to Greene's Field. Is the Planning Board aware of those emails?

Last week Lisa Cherbuliez emailed you NFM's detailed layout plan for Greene's Field, which the Planning Board wanted.

NFM vendor and shopper trash procedures to comply with requirements are stated in Part 1c (page 1) of the License Agreement and in my January 21, 2022 letter to the Board (Site Plan Review Criteria Part 1d, "Adequacy of methods of disposal of refuse and other wastes resulting from the uses permitted on the site") on page 3. I also testified on March 1st as to these NFM procedures.

I believe that Lisa and I have now resolved the Planning Board's concerns voiced at the March 1st hearing for tomorrow's hearing on same. We are prepared to answer any questions fully so that the Planning Board can then hopefully vote tomorrow on NFM's Application for the Special Permit.

Thanks for your help.

Best,
Jeff Friedman and Lisa Cherbuliez
Needham Farmers Market Board

**MAJOR PROJECT SITE PLAN SPECIAL PERMIT
Amendment
March 15, 2022**

**Wingate Development, LLC
Application No. 93-3
(Original Decision dated July 27, 1993, as amended August 9, 1994, August 8, 1995,
November 21, 1995, June 3, 1997, and March 15, 2011,
Insignificant Change on April 18, 2013, and further amended on December 17, 2013)**

DECISION of the Planning Board (hereinafter referred to as the Board) on the petition of Wingate Development, LLC, 63 Kendrick Street, Needham, Massachusetts 02494, (hereinafter referred to as the Petitioner), for property located at 589 Highland Avenue, Needham, Massachusetts. The property is shown on Assessor's Map 77 as Parcel 1 containing 110,490 square feet in the Elder Services Zoning District.

This Decision is in response to an application submitted to the Board on February 1, 2022 by the Petitioner for an Amendment to Major Project Site Plan Review Special Permit issued by the Needham Planning Board on July 27, 1993, under Sections 3.2.1, 5.1.1.5 and 7.4 of the Needham Zoning By-Law and Section 4.2 of Major Project Special Permit No. 1993-03, dated July 27, 1993. The July 27, 1993, decision was further amended on August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, and March 15, 2011, Insignificant Change on April 18, 2013, and on December 17, 2013.

The requested amendment would, if granted, permit the conversion of the existing 142-bed skilled nursing facility to 50 independent living units. No other use is proposed and no change to the ground, exterior or the building or footprint of the building is proposed. Additionally, the Petitioner notes that the original Site Plan Special Permit No. 93-03, dated July 27, 1993, was issued to Continental Healthcare VII Limited Partnership. Section 4.5 of the July 27, 1993, decision states that the Special permit shall not be transferred or assigned without approval of the Board, after notice and a hearing. By decision dated March 15, 2011, approval was granted to transfer the Special Permit to NHP Properties Business Trust, and Section 4.5 of the Decision was amended accordingly. The current owner, Wingate at Needham, Inc. acquired the property in 2016. The Petitioner and owner now seek approval of the transfer to Wingate at Needham, Inc.

In accordance with the By-Law, Section 3.12.4, a special permit is required for independent living units in the Elder Services Zoning District. In accordance with the By-Law, Section 7.4, a Major Project Site Plan Review Amendment is required.

After causing notice of the time and place of the public hearing and of the subject matter hereof 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, March 1, 2022, at 7:30 PM by Zoom Web ID Number 826-5899-3198. Board members Paul S. Alpert, Adam Block, Jeanne S. McKnight, Martin Jacobs and Natasha Espada were present throughout the proceedings. The record of the proceedings and the submission upon which this decision is based may be referred to in the office of the Town Clerk or the office of the Board.

EVIDENCE

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

- Exhibit 1 - Application Form for Site Plan Review completed by the applicant dated February 1, 2022.
- Exhibit 2 - Letter from Attorney Evans Huber, dated January 25, 2022.
- Exhibit 3 - Plan entitled "Site Plan, 589 Highland Avenue, Wingate Needham, Needham Mass." Prepared by R.E. Cameron and Associates, Inc., dated January 12, 2022.
- Exhibit 4 - Architectural Plans, entitled "Wingate at Needham Rehabilitation," prepared by The Architectural Team, In., consisting of 7 sheets: Sheet 1, Sheet D1.00, entitled "Demolition Overall Plan – Basement," dated January 19, 2022; Sheet 2, Sheet D1.01, entitled "Demolition Overall Plans (Schematic)," dated January 19, 2022; Sheet 3, Sheet A1.00, entitled "Proposed Overall Plan – Basement," dated January 19, 2022; Sheet 4, Sheet A1.01, entitled "Proposed Overall Plans (Schematic)," dated January 19, 2022; Sheet 5, Sheet A2.10, entitled "Enlarged Unit Plans," dated January 19, 2022; Sheet 6, Sheet 2.11, entitled "Enlarged Unit Plans," dated January 19, 2022; Sheet 7, Sheet A2.12, entitled "Enlarged Unit Plans," dated January 19, 2022.
- Exhibit 5 - Traffic Analysis, prepared by Ron Müller and Associates, dated December 10, 2021.
- Exhibit 6 - Interdepartmental Communication (IDC) to the Board from Thomas Ryder, Acting Town Engineer, dated February 24, 2022; IDC to the Board from Timothy McDonald, Health Department, dated February 24, 2022; and IDC to the Board from Chief Dennis Condon, Fire Department, dated February 8, 2022.

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

FINDINGS AND CONCLUSIONS

The findings and conclusions made in Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, and March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013, were ratified and confirmed except as follows:

- 1.1. The property has been the subject of several site plan special permit decisions and amendments thereto. The original decision was dated July 27, 1993, and was amended as follows: August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, and March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013.
- 1.2. The requested amendment would, if granted, permit the conversion of the existing 142-bed skilled nursing facility to 50 independent living units consisting of studios, 1-bedroom and 2-bedroom apartments with full kitchens and washers and dryers. No other use is proposed and no change to the ground, exterior or the building or footprint of the building is proposed.
- 1.3. The Petitioner stated that before filing with the Massachusetts Department of Public Health to close the skilled nursing facility, only 98 of the 142 beds were filled. Staffing was also low. The Petitioner has expressed that they could not maintain the long-standing quality of care that they were accustomed to giving the residents.

- 1.4 Additionally, the Petitioner notes that the original Site Plan Special Permit No. 93-03, dated July 27, 1993, was issued to Continental Healthcare VII Limited Partnership. Section 4.5 of the Decision states that the Special permit shall not be transferred or assigned without approval of the Board, after notice and a hearing. By decision dated March 15, 2011, approval was granted to transfer the Special Permit to NHP Properties Business Trust, and Section 4.5 of the Decision was amended accordingly. The current owner, Wingate at Needham, Inc. acquired the property in 2016. The Petitioner and owner now seek approval of the transfer to Wingate at Needham, Inc. The Board approves the requested transfer from NHP Properties Business Trust to Wingate at Needham, Inc. as conditioned by Section 4.5 of this decision.
- 1.5 A traffic study was included as part of this application (Exhibit 5). The traffic study shows the project will result in a reduction in vehicle trips and a reduction in parking demand. On a typical weekday, the independent living units will generate a total of 260 fewer vehicle trips (entering and exiting), including fewer trips during the morning and afternoon peak hours. On Saturdays, it is expected that the independent living units will likewise generate fewer trips during the peak hour than the existing facility.
- 1.6 Per Section 3.12.9 of the By-Law, the parking requirement for independent living units is .5 spaces per unit, resulting in a required parking supply for this proposed redevelopment of 25 spaces. The Petitioner also anticipates 5 full time employees which would require an additional 2.5 spaces (1 space per 2 employees). The additional parking requirement would bring the total required parking to 28 spaces. As the existing number of spaces on this site is 98 (96 constructed, 2 reserved) there is more than sufficient existing parking to satisfy the requirement. By prior special permit, permission was granted to count 10 spaces on the adjacent property (known as "Lot A") towards the required parking total. However, because the required parking supply is decreasing so significantly, to 28, it will no longer be necessary to utilize those spaces on the adjacent property.
- 1.7 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 Elder Services Zoning District for an elder service use namely, front, side and rear setback, maximum building height, maximum number of stories, and floor area ratio. As indicated in the Zoning Table shown on the Plan, the proposed parking lot currently already complies with all the Design Guidelines under Section 5.1.3 of the Zoning By-Law except for the installation of a bicycle rack, which the Petitioner proposes to install.
- 1.8 Pursuant to Section 3.12.10 of the Zoning By-Law, at least 10% of the Independent Living Apartments shall be Affordable Housing Units. Since the proposal includes the creation of fifty (50) independent living units, the Petitioner has proposed that five (5) will be designated as Affordable Housing Units. At the Planning Board's request, the Petitioner will include 12.5% of the units as affordable for a total of 7 units (rounded up from 6.25).
- 1.9 Adjoining premises will be protected against any seriously detrimental uses of the proposed project by minimizing new impervious soil, screening with louvers, and acoustical levels that meet all state of Massachusetts airborne noise requirements. There will be no new building nor any new parking surfaces added.
- 1.10 Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets and the location of driveway openings in relation to traffic or to adjacent streets has been assured. The proposed change in use from skilled nursing to independent living units will greatly reduce parking demand and vehicle trips.

- 1.11 Adequate parking has been provided for staff, deliveries, visiting professionals, family and friends of residents.
- 1.12 Adequate methods of disposal of refuse and other wastes resulting from the uses permitted on the site have been provided. No change to the waste disposal plan is being proposed.
- 1.13 The proposed project will not have any adverse impacts 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 site is already developed and the total number of people living there will be reduced.
- 1.14 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 has been met. The site is already developed. The parking lot as currently constructed contains many more parking spaces than are required. The petitioner may in the future return to the Board to amend the site plan to include more open space. In the meantime, the Petitioner will maintain the existing landscaping.
- 1.15 Under Section 3.12.4 of the By-Law, a special permit to operate independent living units in the Elder Services Zoning District may be granted if the Board finds that the proposed development complies with the standards and criteria set forth in the provisions of the By-Law. Based on 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.
- 1.16 Under Section 7.4 of the By-Law and Section 4.2 of Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997 and March 15, 2011, Insignificant Change on April 18, 2013 and further amended on December 17, 2013, a Major Project Site Plan Special Permit Amendment may be granted in the Elder Services Zoning District, if the Board finds that the proposed project complies with the standards and criteria set forth in the provisions of the By-Law. Based on the above findings and criteria, the Board finds that the Approved Plan Set, as conditioned and limited herein for 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 proposed a development which is harmonious with the surrounding area.

THEREFORE, the Board voted 5-0 to GRANT (1) the requested special permit for 50 independent living units in the Elder Services Zoning District under Section 3.12.4 of the Zoning By-Law; and (2) a special permit for a Major Project Site Plan Review Amendment under Section 7.4 of the Zoning By-Law; 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 pertaining to this Decision, 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 for the work proposed in this Decision nor shall he permit any construction activity pertaining to this Decision 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 four 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 Plans shall be modified to include the requirements and recommendations of the Board as set forth below. The modified plans shall be submitted to the Board for approval and endorsement.
- a) The Plan shall be revised to show the loading dock area converted to covered bike parking.
 - b) An existing condition as-built plan for the entire Elder Services District Campus shall be provided.

CONDITIONS AND LIMITATIONS

The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, and March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013, are ratified and confirmed except as modified herein.

DECISION

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

- 3.1 The plan modifications, conditions and limitations contained in Major Project Site Plan Special Permit No. 93-3, dated July 27, 1993, as amended August 9, 1994, August 8, 1995, November 21, 1995, June 3, 1997, and March 15, 2011, Insignificant Change on April 18, 2013, and further amended on December 17, 2013, are ratified and confirmed, except as follows:
- 3.2 The conversion of the existing 142-bed skilled nursing facility to 50 independent living units consisting of studios, 1-bedrooms and 2-bedrooms apartments with full kitchens and washers and dryers is approved. Any changes, revisions or modifications to the Plan, as modified by this Decision, shall require approval by the Board. Minor revisions to the floor plan are permitted provided that the total square footage of the building does not increase, and the total number units does not exceed 50.
- 3.3 No administrative use, other than that needed for operation of the independent living units, or other community activity incidental to the facility being conducted on the site, shall be allowed. There shall be no more than 5 full time employees.
- 3.4 At least 96 paved parking spaces including 59 full sized spaces and 37 compact spaces shall be provided on-site. With the conversion of the existing 142-bed skilled nursing facility to 50 independent living units the 10 additional parking spaces located on the adjacent property (known as "Lot A") which previously served the skilled nursing facility shall no longer be required for the independent living use.
- 3.5 Pursuant to Section 3.12.10 of the Zoning By-Law, at least 10% of the independent living apartments shall be Affordable Housing Units. At the request of the Board, the Petitioner, however, has committed to 12.5% of the units being Affordable Housing Units. Since after completion of the proposed addition, the project will contain 50 independent living apartments, a total of seven (rounded up from 6.25) of said apartments shall be Affordable Housing Units. The seven affordable units will be proportionately distributed throughout the new building in terms of both unit size and type consistent with Local Initiative Guidelines, Section VI.B.5.d.
- 3.6 There shall be seven new affordable units in the entire building. The seven affordable housing 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 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 recorded.

- 3.7 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 Board of Selectmen 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.
- 3.8 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.
- 3.9 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 Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.10 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 Commissioner.
- 3.11 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 not at all on Sundays and holidays.
 - 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 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 Highland Avenue, Gould Street or surrounding streets.

- 3.12 No building permit shall be issued for the proposed project 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 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 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.
- 3.13 No building or structure, or portion thereof, subject to this Special Permit and Site Plan Approval shall be occupied until:
- a. There shall be filed with the Board and Building Commissioner a Final Construction Control Document signed by a registered architect upon completion of construction.
 - b. The Town shall have received a copy of the recorded DHCD-approved affordable housing restriction as described in paragraph 3.6.
- 3.14 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 Commissioner, Fire Department, Department of Public Works, Conservation Commission, Police Department, and Board of Health.
- 3.15 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 Commissioner.
- 3.16 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.
- 3.17 Violation of any of the conditions of this Approval 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 Approval, the Town will notify the owner of such violation and give the owner reasonable time, not to exceed thirty (30) days, to cure the violation. If, at the end of said thirty (30) day period, the Petitioner has not cured the violation, or in the case of violations requiring more than thirty (30) days to cure, has not commenced the cure and prosecuted the cure continuously, the permit granting authority may, after notice to the Petitioner, conduct a hearing in order to determine whether the failure to abide by the conditions contained herein should result in a recommendation to the Building Commissioner 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 Approval 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 Approval 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 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 This Special Permit shall not be transferred or assigned by Wingate at Needham, Inc. without the prior approval of the Board after hearing and notice.
- 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 Amendment shall lapse on March 15, 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 March 15, 2024. 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.

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

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

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

Witness our hands this 15th day of March, 2022.

NEEDHAM PLANNING BOARD

Paul S. Alpert, Chairperson

Adam Block

Martin Jacobs

Jeanne S. McKnight

Natasha Espada

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 preceding 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 Amendment to Decision of the project proposed by Wingate Development, LLC, 63 Kendrick Street, Needham, Massachusetts 02494, for property located at the 589 Highland 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 # _____
Design Review Board
Building Commissioner
Conservation Commission

Select Board
Engineering
Fire Department
Police Department

Board of Health
Town Clerk
Director, PWD
Parties in Interest



1 INCH = 40 FT.

MEMORANDUM

TO: Planning Board Members and Select Board Members
CC: Kate Fitzpatrick, Town Manager
Dave Davison, Assistant Town Manager/Director of Finance
FROM: Katie King, Assistant Town Manager/Director of Operations
Lee Newman, Director of Planning & Community Development
Karen Sunnarborg, Community Housing Specialist
Cyndi Roy Gonzalez, Public Information Officer
SUBJECT: DHCD Multi-Family Zoning Requirement for MBTA Communities
DATE: March 4, 2022

In January 2021, Governor Baker signed Chapter 358 of the Acts of 2020¹ into law, which requires each MBTA community to have “a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right.” The statute requires that:

- the housing cannot have age-restrictions and must be suitable for families with children;
- the zoning must allow for at least 15 units per acre;
- the district must be within 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station; and
- non-compliant communities will be ineligible to receive state funds from the Housing Choice Initiative, the Local Capital Projects Fund, and the MassWorks infrastructure program.

The Massachusetts Department of Housing and Community Development (DHCD), in consultation with the MBTA and MassDOT, is responsible for establishing guidelines for implementation and determining if communities are compliant. This legislation is part of a broader effort to encourage transit-oriented development and address the state’s housing shortage, in terms of both the number of units and types of housing stock available.

DHCD Guidelines Summary

In December, DHCD released draft guidelines² for how communities can comply with this new multi-family zoning requirement.

Allowing Multi-Family Housing “As of Right”: Multi-family is defined as “a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.” Requiring special permits is prohibited but site plan review is allowed to review certain items including traffic flow, public safety concerns, and architectural design.

Having a District of “Reasonable Size”: DHCD has set two thresholds to determine what a “reasonable size” district means - land area and unit capacity. Each community must achieve both measures.

¹ <https://malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter358>

² <https://www.mass.gov/info-details/draft-compliance-guidelines-for-multi-family-districts-under-section-3a-of-the-zoning-act>

- 1) Minimum land area: the multi-family zoning district must cover at least 50 acres of land. One portion of the district must be at least 25 contiguous acres and no portion of the district can be fewer than 5 contiguous acres. These can be achieved via base zoning and/or overlay districts.
- 2) Minimum multi-family unit capacity: A principle of DHCD's guidelines is that MBTA communities benefit from having transit stations and should provide the opportunity for multi-family housing development around these assets. The required "unit capacity" is a percentage of the total existing housing units in the municipality, determined by the type of MBTA community:
 - Rapid transit community (subway) = 25%
 - Bus service community = 20%
 - Commuter rail community = 15%
 - Adjacent community = 10%

The DHCD guidelines classify Needham as a bus service community. The Town's 2020 Census count was 11,891 housing units. Needham's minimum unit capacity of 20% is 2,378 units.

Communities must show that this minimum number of units could be constructed as of right, within the multi-family district, after taking into account zoning requirements for height, massing, lot coverage, FAR, setbacks, parking, etc. Communities must also consider limitations in other municipal bylaws or ordinances that would prohibit the zoning from being realized. For example, water/sewer capacity limits, title restrictions, or presence of wetlands.

Zoning for Minimum Gross Density: A community can establish sub-districts with varying densities, as long as the density across the multi-family zoning district averages 15 units per acre. Density measurement includes land occupied by public rights-of-way and any recreational, civic, commercial, and other non-residential uses. Paired with the minimum land area of 50 acres, a community must show that the zoning legally and practically would allow for at least 750 multi-family units by right.

Ensuring Suitability for Families with Children: Zoning cannot place age restrictions on the units. It also cannot limit or restrict the size of the units, number of bedrooms, size of the bedrooms, or the number of occupants.

Locating the district: For MBTA communities with transit within their borders, at least 25 acres of the district must be within 0.5 miles of a transit station. Under the current guidelines, a bus stop does not meet the definition of a "station". Portions of the district may be further away from transit, "provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections."

Determining Compliance: When a community believes it has a district that complies, it may request a determination from DHCD. DHCD will review and issue a written determination of compliance or non-compliance along with steps that must be taken to achieve compliance. A determination of compliance lasts for 10 years. It can be rescinded if subsequent zoning amendments are adopted that materially alter the unit capacity in the multi-family district. The timeline for interim compliance is on page 5.

Other Considerations:

- There are no affordability requirements under this legislation. Communities may choose to apply inclusionary zoning requiring that a percentage of units in new housing developments be

affordable, if they are financially feasible and do not unduly impede the construction of new multi-family housing in the district.

- There are no housing production requirements under this legislation. Compliance is based on updating local zoning. Actual development will be based on several other factors.
- Multi-family zoning districts may already be built-out, in part or in whole, with units previously constructed via special permit or under 40B. A community doesn't "count" those existing units towards their unit capacity. Instead, the community would determine how many multi-family units the zoning district would allow by right on that parcel if it were undeveloped.
- Mixed-use development is encouraged. Commercial and other uses can be permitted by right or by special permit in a multi-family zoning district, as long as the district still meets the unit capacity, density, and other requirements in the guidelines.

Needham Zoning Analysis

Needham has four Massachusetts Bay Transportation Commuter Rail (MBTA) stops located at Needham Heights, Needham Center, Needham Junction and Hersey. To determine the impact of the DHCD released draft guidelines, the area within a ½ mile of each transit station was mapped on the Town's zoning map. Current zoning district land use regulations were then reviewed both within and outside of the ½ mile radius area for compliance with the draft DHCD guidelines. A map showing the ½ mile radius distance around each of Needham's commuter rail stations and the zoning districts located within those radii is attached as Appendix B.

Zoning Analysis within ½ mile radius of transit

A summary table detailing the zoning the districts where multi-family housing is permitted within ½ mile of transit either by right or special permit, district acreage, district density and district buildout potential is detailed in Table 1 below.

Table 1: Zoning Analysis Within Half Mile of Transit		
Use District	Estimated Acres	18 Units/acre total
BY RIGHT		
Apartment A-1	22	396
	Total:	396
SPECIAL PERMIT		
Avery Square Business	12	216
Center Business	30	540
Chestnut Street Business	33	594
Hillside Avenue Business	6	108
	Total:	1458
Total Units within a 1/2 mile:		1854

Presently only one zoning district permits multi-family housing as-of-right within ½ mile of transit at the minimum DHCD required density standard of 15 units per acre; that is the A-1 Apartment district where the multi-family density standard is set at 18 units per acre. Needham has three A-1 Apartment districts meeting this density standard, namely, Rosemary Lake Apartments and Rosemary Ridge Condominiums (14 acres), the Highlands (4 acres) and Hamilton Highlands (4 acres) for a total of 22 acres. Two of these districts if left as independent entities would fall below the 5-acre minimum land area requirement found in the draft DHCD regulations and would need to be adjusted. The multi-family build-out density for the 22 acres located in the A-1 Apartment district totals 396 dwelling units.

Needham has four commercial districts that permit multi-family housing development by special permit within ½ mile of transit at the minimum required density standard of 15 units per acre.

These districts comprise the Center Business District (30 acres) and Chestnut Street Business District (33 acres) where multi-family housing is permitted at a density of 18 units per acre in both the underlying zoning district and the overlay district. The multi-family build-out density for the Center Business district provides 540 dwelling units, the Chestnut Street Business district provides 594 dwelling units, for a total of 1,134 dwelling units. Were the Town to choose to permit multi-family housing in these two districts by right, they would be compliant with the draft DHCD guidelines under the Center Business and Chestnut Street overlay district provisions.

Also permitting multi-family housing by special permit at a density of 18 units per acre are the Avery Square Business district (12 acres) and the Hillside Avenue Business district (6 acres). Zoning requirements for height, massing, lot coverage, FAR, and setbacks currently applicable in these districts would need to be reviewed, however, to determine if they constrain attainment of the permitted special permit density of 18 units per acre. Were the Town to choose to permit multi-family housing in these two districts by right at the current density and to make any required massing adjustments, the Avery Square Business district provides 216 dwelling units, the Hillside Avenue Business district 108 dwelling units, for a total of 324 dwelling units.

Zoning Analysis outside ½ mile transit radius

Finally, we turn to multi-family development located outside of the ½ mile radius which is permitted either through current zoning or as a 40B development. DHCD draft guidelines allow portions of the district to be located further away from transit, “provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections”. A summary table detailing locations where multi-family housing is currently permitted either through current zoning or as a 40B development further away from transit is detailed in Table 2 below with parcel acreage, site density and multi-family buildout potential provided.

Table 2: Zoning Analysis Outside of Half Mile of Transit			
Use District	Estimated Acres	Total Units	# of Units/Acre
By RIGHT			
Apartment A-1	6	108	18
	Total:	108	
40B			
Charles River Landing	7.93	350	44.14

The Kendrick	5.13	390	76.02
Modera Needham	6.02	136	21.59
	Total:	876	
Total Units outside a 1/2 mile:		984	

Within this category is the A-1 Apartment district located at 31 Hamlin Lane, where the as-of-right multi-family density standard is set at 18 units per acre. This district comprises the Hamlin Condominium development which contains 6 acres of land with an associated multi-family build-out of 108 units. Also included in this category are three of the Town's 40B developments, namely, Charles River Landing (350 units), the Kendrick (390 units) and Modera Needham (136 units). These three 40B developments, if rezoned to permit through as-of-right zoning the density profile currently developed at each respective property, would collectively yield 876 units.

Funding Analysis

Housing Choice Initiative: The Town is applying for Housing Choice Designation this month. Designated communities (currently 78) have exclusive access to apply for these funds, which support planning and zoning initiatives and public infrastructure construction projects. The Housing Choice Initiative is funded at \$4M for FY23. Grant awards are between \$25,000 - \$250,000.

MassWorks: This is a competitive state grant program that offers the largest and most flexible source of capital funds for municipal infrastructure projects. Grants support projects that spur housing production, new jobs, or private development and range from \$500,000 to \$5 million. The Town received a \$1.675M grant for 1st Avenue and anticipates applying to this program in the future.

Local Capital Projects Fund: This fund was established to collect a percentage of one-time gaming licensing fees paid to the Massachusetts Gaming Commission. Needham has not applied for these funds to date and does not anticipate doing so in the future.

Timeline

March 31, 2022 Deadline to submit comments on DHCD draft guidelines.

May 2, 2022 Deadline to comply for 2022. By this day, a municipality must:

1. Present the draft guidelines at a Select Board meeting,
2. Submit an MBTA Community Information Form, and
3. Submit updated GIS Parcel maps to MassGIS, if applicable.

Compliance in 2022 preserves FY23 eligibility for the 3 funding sources.

Summer 2022 DHCD will release final guidelines.

December 31, 2022 Deadline to remain in interim compliance for 2023. Communities must submit either a request for determination of compliance or a proposed action plan and

	timeline for any planning studies or community outreach activities it will undertake to adopt a district that complies.
March 31, 2023	DHCD will complete their review of all submissions by rapid transit and bus service communities.
July 1, 2023	DHCD will complete their review of all submissions by commuter rail and adjacent communities.
December 31, 2023	Zoning must be adopted by rapid transit and bus service communities.
December 31, 2024	Zoning must be adopted by commuter rail and adjacent communities.

Suggested Comments for DHCD Guidelines

During our analysis, we identified areas that need clarification and some recommendations for more substantive changes to the draft guidelines. Here is a brief list, which is expanded on in Appendix A:

- Request clarification on the definitions of “bus service community” and “commuter rail community” as they differ in the draft guidelines versus DHCD’s FAQ.
- Allow land within 0.5 miles of a bus route/stop to count towards the 25-acre minimum within the district, not just land within 0.5 miles of a bus station.
- Allow communities to count existing 40B units that achieve 15 units per acre density but are more than 0.5 miles from transit towards their required unit capacity.
- Adhere to the legislative intent that non-compliance would result in ineligibility for only the three state funding sources named in the statute.
- Determine compliance of a proposed zoning district *before* it goes to Town Meeting.
- Extend the deadline for final zoning adoption/compliance to December 31, 2024, for all communities.

Recommendations

1. That the Planning Board and Select Board approve the Town Manager to submit a letter on the Town’s behalf commenting on the DHCD draft guidelines by March 31. We ask Members to review the draft letter below and provide feedback by March 25.
2. That the Select Board add a presentation on these guidelines to a meeting prior to May 2 so the Town may achieve compliance in 2022.
3. That the Affordable Housing Working Group consider strategies for compliance with these guidelines and incorporate recommendations in their final plan.
4. That Planning & Community Development staff develop a workplan and timeline for compliance with the deadlines established by DHCD.

Appendix A - DRAFT letter to DHCD (comments due by March 31, 2022)

March XX, 2022

Mike Kennealy
Secretary, Executive Office of Housing and
Economic Development
One Ashburton Place, Room 2101
Boston, MA 02108

Jennifer D. Maddox
Undersecretary, Department of Housing and
Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

Chris Kluchman
Deputy Director, Community Services Division
Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114

RE: Multi-Family Zoning Requirement for MBTA Communities

Dear Secretary Kennealy, Undersecretary Maddox, and Deputy Director Kluchman:

Thank you for the opportunity to comment on the Department of Housing and Community Development's (DHCD) "DRAFT Compliance Guidelines for Multi-family Districts Under Section 3A of the Zoning Act". On behalf of the Town of Needham, I respectfully submit these comments for your consideration. The items below would provide needed clarity and strengthen a municipality's ability to achieve the goals of the legislation to provide more opportunities for multi-family housing near transit.

1. **Please clarify the definition of "bus service community."** The DHCD draft guidelines includes these definitions (emphasis added):

"Bus service community" means an MBTA community with a bus station within its borders or within 0.5 miles of its border, **or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.**

"Bus station" means a building located at the intersection of two or more public bus lines, within which services are available to bus passengers; provided that a bus station does not include a shelter or other structure without walls and a foundation.

The Town of Needham has four commuter rail stops on the Needham line and has one MBTA bus route (#59) but no bus stations. Based on the above definitions, we would conclude that Needham is a commuter rail community. However, on mass.gov/mbtacomunities, Needham is determined to be a bus service community. DHCD's FAQ includes this explanation (emphasis added):

"Can you clarify how DHCD determined if a particular MBTA community is a rapid transit community, a bus service community, a commuter rail community, or an adjacent community?

MBTA communities were categorized based on whether they have transit service located within the municipality or within 0.5 miles of the municipal boundary, and if so what type of transit

service. A community with access to more than one transit type is classified in the category with the higher unit capacity requirement. More specifically:

- A bus service community has no subway station within its border or within 0.5 miles of its border, but does have an MBTA bus route with one or more bus stops located within the community. Note, ***a bus community that happens also to have a commuter rail station within its borders is placed within the bus community category due to the presence of the bus route.***

The language used in the guideline definitions does not fully align with the FAQ explanation. I respectfully ask you to clarify the definition of bus service community.

2. Allow parcels within 0.5 miles of a bus route/stop to count towards the minimum land area of the district, not just land within 0.5 miles of a bus (or other) station.

A principle of these guidelines is that communities that benefit from transit services should provide the opportunity for multi-family housing development around those same assets. The guidelines further emphasize this framework in how unit capacity is determined, by an increasing percentage of minimum multi-family units as a percentage of total housing stock, based on the type of transit service in a community. Thus, the more transit that is available in a community, the higher the responsibility for multi-family housing. However, under the draft guidelines, compliant zoning districts (or at least 25 acres of them) must be within 0.5 miles of a transit station only. Parcels within 0.5 miles of a bus route or stop would not count towards this minimum area. If a community is defined as a bus service community and expected to contribute a higher percentage of unit capacity due to that bus route, that community should be able to utilize that same route to meet the requirements of these guidelines.

3. Allow communities to count existing 40B units that achieve 15 units per acre density but are more than 0.5 miles from transit towards their required unit capacity.

Needham and other communities have completed new, dense multi-family housing developments over the last 5-10 years. Three of these developments in Needham (Charles River Landing, the Kendrick, and Modera) total 876 units and have greatly contributed to the available housing stock in town, including affordable units. However, they are located more than 0.5 miles from any transit stop. Since the unit capacity requirement is a percentage increase over existing housing units, communities that have proactively built multi-family housing are being asked to contribute even more compared to those communities that have not done so. We ask that the DHCD guidelines acknowledge previous efforts towards the underlying goal of this legislation to meaningfully contribute to the region's housing shortage, by allowing communities to count existing 40B units that achieve 15 units per acre density but are more than 0.5 miles from transit towards their required unit capacity.

4. Adhere to the statute regarding funding ineligibility.

Section 18 of Chapter 358 of the Acts of 2020 explicitly lists three funding programs that a community would be ineligible for if they are not compliant with this statute.

“(b) An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.”

DHCD's draft guidelines go beyond this authority and add ambiguity: "DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards." Communities should have a clear understanding of the consequences of non-compliance and the DHCD guidelines should adhere to the Legislature's original intent.

5. Determine compliance of a proposed zoning district *before* it goes to Town Meeting.

The Town strongly requests that DHCD commit to providing a conditional determination of compliance for zoning districts *before* the proposal goes to Town Meeting. Bringing any article to Town Meeting requires a significant amount of time and effort for elected and appointed officials and municipal staff. DHCD should provide municipalities with a clear ruling that a proposed zoning amendment would be compliant, so that article proponents, Town Meeting Members, and residents have that context prior to any vote. DHCD could make that determination conditional on no amendments being adopted on Town Meeting floor. If any amendments are adopted during debate, DHCD should have 90-days to review and determine if the new district remains in compliance.

6. Extend the deadline for final zoning compliance to December 31, 2024, for all communities.

The Town of Needham normally holds two Town Meetings, one in the spring and one in the fall, with most substantive zoning amendments taken up in the spring. Town Meeting warrants are shaped months in advance, subject to timelines under our Town Charter. As you are aware, zoning amendments are also subject to additional process requirements under Chapter 40A. If action plans for bus service communities are not approved until March 31, 2023, then any planning studies or outreach initiatives within those plans would not begin until then. It would be nearly impossible to have a final proposal ready for Spring 2023 Town Meeting and challenging for Fall 2023 Town Meeting. Ultimately, achieving the goals of this legislation requires an affirmative vote of Town Meeting. Extending the deadline for final adoption to December 31, 2024, would provide all communities (regardless of the type of transit within its boundaries) with the time needed to take a thoughtful approach and productively engage the community prior to any vote.

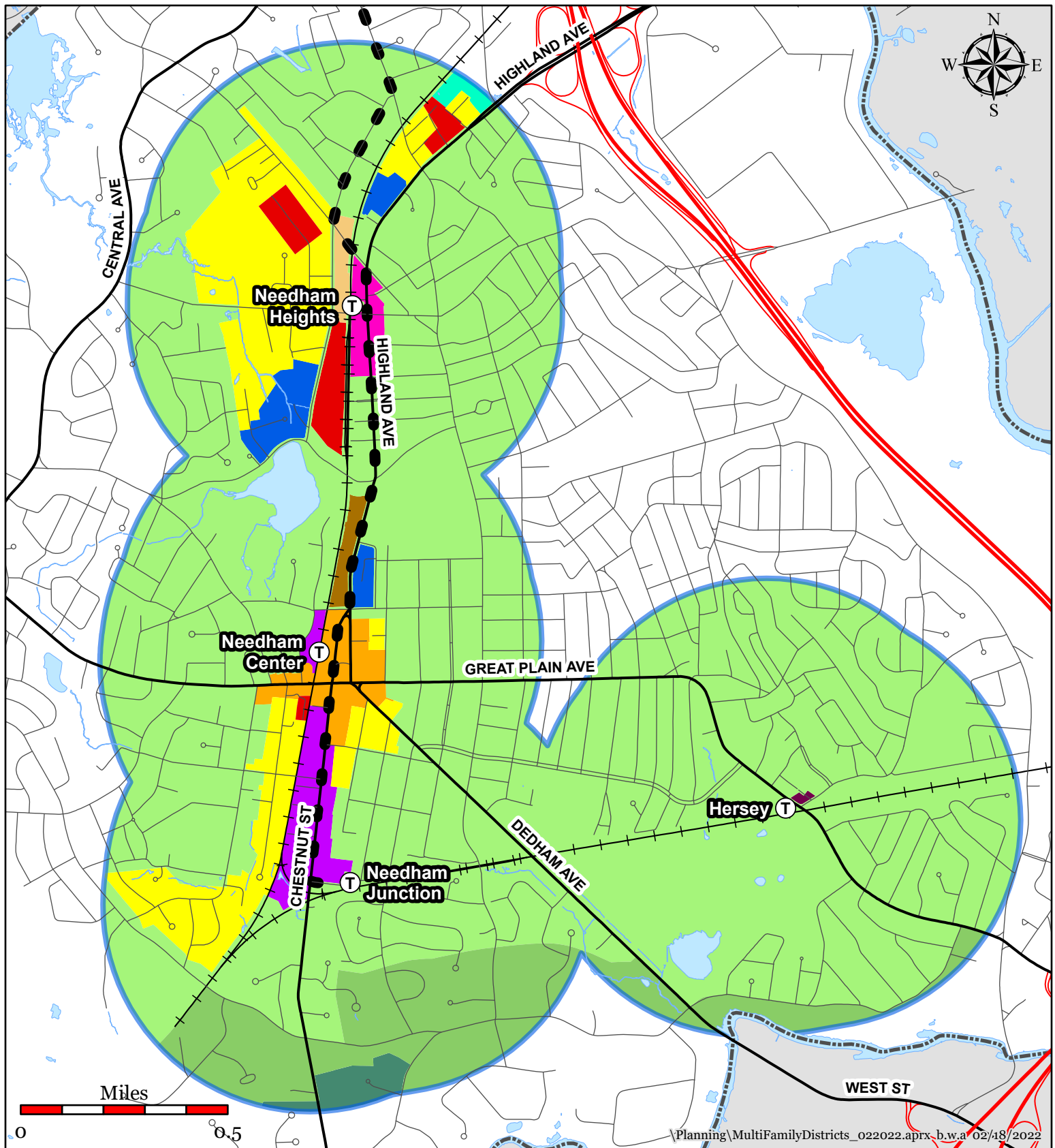
Thank you again for your time and consideration. If you have any questions, please contact me at (781) 455-7500 or kfitzpatrick@needhamma.gov.

Sincerely,

Kate Fitzpatrick
Needham Town Manager

CC: Needham Select Board
Needham Planning Board
State Representative Denise Garlick
State Senator Rebecca Rausch
State Senator Michael Rush

Use Districts Within 1/2 Mile of Rail Stations



Ⓣ Commuter Rail Stations

Interstate Highways

Highway Ramps

Major Roads

Minor Roads

MBTA Bus Route

Railroads

Town Boundaries

Waterbodies

1/2 Mile From
Commuter Rail Station

Zoning

Apartment A-1

Avery Square Business

Center Business

Business

Chestnut Street Business

Elder Services

General Residence

Hillside Avenue Business

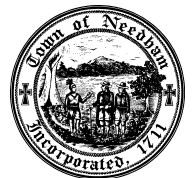
Industrial

Neighborhood Business

Rural Residence Conservation

Single Residence A

Single Residence B



Town of Needham GIS

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Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING & COMMUNITY
DEVELOPMENT**

Charles D. Baker, Governor ♦ Karyn E. Polito, Lt. Governor ♦ Jennifer D. Maddox, Undersecretary

**DRAFT Compliance Guidelines for Multi-family Districts Under
Section 3A of the Zoning Act**

1. Overview of Section 3A of the Zoning Act

Section 18 of chapter 358 of the Acts of 2020 added a new section 3A to chapter 40A of the General Laws (the Zoning Act) applicable to MBTA communities (referred to herein as “Section 3A”). Subsection (a) of Section 3A provides:

An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

The purpose of Section 3A is to encourage MBTA communities to adopt zoning districts where multi-family zoning is permitted as of right, and that meet other requirements set forth in the statute.

The Department of Housing and Community Development, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, is required to promulgate guidelines to determine if an MBTA community is in compliance with Section 3A. DHCD promulgated preliminary guidance on January 29, 2021. DHCD updated that preliminary guidance on December 15, 2021. These guidelines provide further information on how MBTA communities may achieve compliance with Section 3A.

2. Definitions

“Adjacent community” means an MBTA community with no transit station within its border or within 0.5 mile of its border.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring occupancy by at least one person age 55 or older.



“Bus service community” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, or an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.

“Bus station” means a building located at the intersection of two or more public bus lines, within which services are available to bus passengers; provided that a bus station does not include a shelter or other structure without walls and a foundation.

“Chief executive officer” means the mayor in a city, and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter.

“Commonwealth’s sustainable development principles” means the principles set forth at <https://www.mass.gov/files/documents/2017/11/01/sustainable%20development%20principles.pdf> as such principles may be modified and updated from time to time.

“Commuter rail community” means an MBTA community with a commuter rail station within its borders, or within 0.5 mile of its border, and no subway station within its borders, or within 0.5 mile of its border.

“Developable land” means land on which multi-family housing units have been or can be permitted and constructed. Developable land shall not include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land that is dedicated to existing public uses, or privately owned land encumbered by any kind of use restriction that prohibits residential use.

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no legal restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“MBTA community” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.” A list of MBTA communities is attached, including the designation of each MBTA community as a rapid transit community, a bus service community, a commuter rail community or an adjacent community for purposes of these compliance guidelines.

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

“Multi-family district” means a zoning district, including an overlay district, in which multi-family uses are allowed by right.

“Rapid transit community” means an MBTA community with a subway station within its borders, or within 0.5 mile of its border. An MBTA community with a subway station within its borders, or within 0.5 mile of its border, shall be deemed to be a rapid transit community even if there is one or more commuter rail stations or MBTA bus lines located in that community.

“Reasonable size” means not less than 50 contiguous acres of land with a unit capacity equal to or greater than the unit capacity specified in section 5 below.

“Residential dwelling unit” means a dwelling unit equipped with a full kitchen and bathroom.

“Unit capacity” means an estimate of the total number of multi-family housing units that can be developed as of right within the multi-family district, made in accordance with the requirements of section 5.b below.

3. General Principles of Compliance

a. These compliance guidelines describe how an MBTA community can comply with the requirements of Section 3A. The guidelines specifically address:

- What it means to permit multi-family housing “as of right”;
- The metrics that determine if a multi-family district is “of reasonable size”;
- How to determine if a multi-family district has a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code;
- The meaning of Section 3A’s mandate that “such multi-family housing shall be without age restrictions and shall be suitable for families with children”; and
- The extent to which MBTA communities have flexibility to choose the location of a multifamily district.

b. The following general principles have informed the more specific compliance criteria that follow:

- All MBTA communities should contribute to the production of new housing stock.
- MBTA communities with subway stations, commuter rail stations and other transit stations benefit from having these assets located within their boundaries and should provide

opportunity for multi-family housing development around these assets. MBTA communities with no transit stations within their boundaries nonetheless benefit from being close to transit stations in nearby communities.

- MBTA communities should adopt multi-family districts that will lead to development of multifamily housing projects of a scale, density and character that are consistent with a community’s long-term planning goals.
- “Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family district that is “reasonable” in one city or town may not be reasonable in another city or town. Objective differences in community characteristics must be considered in determining what is “reasonable” for each community.
- To the maximum extent possible, multi-family districts should be in areas that have safe and convenient access to transit stations for pedestrians and bicyclists.

4. Allowing Multi-Family Housing “As of Right”

To comply with Section 3A, a multi-family district must allow multi-family housing “as of right,” meaning that the construction and occupancy of multi-family housing is allowed in that district without the need to obtain any discretionary permit or approval. Site plan review and approval may be required for multi-family uses allowed as of right. Site plan review is a process by which a local board reviews a project’s site layout to ensure public safety and convenience. Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties. Site plan review may not be used to deny a project that is allowed as of right, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.

5. Determining “Reasonable Size”

In making determinations of “reasonable size,” DHCD will take into consideration both the area of the district and the district’s multi-family unit capacity (that is, the number of units of multi-family housing that can be developed as of right within the district).

a. Minimum land area

Section 3A’s requirement that a multi-family district be a “reasonable size” indicates that the purpose of the statute is to encourage zoning that allows for the development of a reasonable amount of multi-family housing in each MBTA community. A zoning district is a specifically delineated land area with uniform regulations and requirements governing the use of land and the placement, spacing, and size of buildings. A district should not be a single development site on which the municipality is willing to permit a particular multi-family project. To comply with Section 3A’s “reasonable size” requirement, multi-family districts must comprise at least 50 acres of land—or approximately one-tenth of the land area within 0.5 mile of a transit station.

An overlay district is an acceptable way to achieve compliance with Section 3A, provided that such an overlay district should not consist of a collection of small, non-contiguous parcels. At least one portion

of the overlay district land areas must include at least 25 contiguous acres of land. No portion of the district that is less than 5 contiguous acres land will count toward the minimum size requirement.

b. *Minimum multi-family unit capacity*

A reasonably sized multi-family district must also be able to accommodate a reasonable number of multi-family housing units as of right. MBTA communities seeking a determination of compliance with Section 3A must provide to DHCD an accurate assessment of the number of multi-family housing units that can be developed as of right within the multi-family district, referred to as the district's unit capacity. A compliant district's multi-family unit capacity must be equal to or greater than a specified percentage of the total number of housing units within the community. The required percentage will depend on the type of transit service in the community, as follows:

Category	Minimum multi-family units as a percentage of total housing stock
Rapid transit community	25%
Bus service community	20%
Commuter rail community	15%
Adjacent community	10%

The minimum unit capacity applicable to each MBTA community is determined by multiplying the number of housing units in that community by 0.25, 0.20, 0.15 or 0.10, depending on the type of service in that community. For example, a rapid transit community with 7,500 housing units is required to have a multi-family district with a multi-family unit capacity of $7,500 \times 0.25 = 1,875$ multi-family units. When calculating the minimum unit capacity, each MBTA community should use 2020 census data to determine the number of total housing units, unless another data source has been approved by DHCD.

When determining the unit capacity for a specific multi-family district, each MBTA community must estimate how many units of multi-family housing could be constructed on each parcel of developable land within the district. The estimate should take into account the amount of developable land in the district, as well as the height limitations, lot coverage limitations, maximum floor area ratio, set back requirements and parking space requirements applicable in that district under the zoning ordinance or bylaw. The estimate must also take into account the restrictions and limitations set forth in any other municipal bylaws or ordinances; limitations on development resulting from inadequate water or wastewater infrastructure, and, in areas not served by public sewer, any applicable limitations under Title 5 of the state environmental code or local septic regulations; known title restrictions on use of the land within the district; and known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

If the estimate of the number of multi-family units that can be constructed in the multi-family district is less than the minimum unit capacity, then the MBTA community must change the boundaries of the multi-family district or make changes to dimensional regulations applicable to that district (or to other local ordinances or bylaws) to allow for the development of a greater number of multi-family units as of right.

It is important to understand that a multi-family district's unit capacity is not a mandate to construct a specified number of housing units, nor is it a housing production target. Section 3A requires only that each MBTA community has a multi-family zoning district of reasonable size. The law does not require the production of new multi-family housing units within that district. There is no requirement nor expectation that a multi-family district will be built out to its full unit capacity.

In some communities, there may be a significant number of multi-family units already existing in the multi-family district; those communities should generally expect fewer new units to be produced in the district, because it is more fully built out. Conversely, there may be some communities with relatively little multi-family housing in its multi-family district; there generally will be more opportunity for new housing production in those districts in which there is a large gap between unit capacity and the number of existing multi-family units.

6. Minimum Gross Density

Section 3A states that a compliant multi-family district must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. DHCD will deem a zoning district to be compliant with Section 3A's minimum gross density requirement if the following criteria are met.

a. District-wide gross density

Section 3A expressly requires that a multi-family district—not just the individual parcels of land within the district—must have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A. To comply with this requirement, the zoning must legally and practically allow for a district-wide gross density of 15 units per acre. The Zoning Act defines “gross density” as “a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

To meet the district-wide gross density the municipality must demonstrate that the zoning for the district permits a gross density of 15 units per acre of land within the district, “include[ing] land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.” By way of example, to meet that requirement for a 50-acre multi-family district, the municipality must show at least 15 existing or potential new multi-family units per acre, or a total of at least 750 existing or potential new multi-family units.

b. Achieving district-wide gross density by sub-districts

Zoning ordinances and bylaws typically limit the unit density on individual parcels of land. To comply with the statute's density requirement, an MBTA community may establish sub-districts within a multi-family district, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multifamily units per acre.

7. Determining Suitability for Families with Children

Section 3A states that a compliant multi-family district must be without age restrictions and must be suitable for families with children. DHCD will deem a multi-family district to comply with these requirements as long as the zoning does not require multi-family uses to include units with age restrictions and does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants.

8. Location of Districts

Section 3A states that a compliant multi-family district shall “be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” DHCD will interpret that requirement consistent with the following guidelines.

a. General rule for measuring distance from a transit station.

To maximize flexibility for all MBTA communities, the distance from a transit station may be measured from the boundary of any parcel of land owned by a public entity and used for purposes related to the transit station, such as an access roadway or parking lot.

b. MBTA communities with some land area within 0.5 miles of a transit station

An MBTA community that has a transit station within its boundaries, or some land area within 0.5 mile of a transit station located in another MBTA community, shall comply with the statutory location requirement if a substantial portion of the multi-family district is located within the prescribed distance. Absent compelling circumstances, at least [one half] of the land area of the multi-family district should be located within 0.5 mile of the transit station. The multi-family district may include land areas that are further than 0.5 mile from the transit station, provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections.

In unusual cases, the most appropriate location for a multi-family district may be in a land area that is further than 0.5 miles of a transit station. Where none of the land area within 0.5 mile of transit station is appropriate for development of multi-family housing—for example, because it comprises wetlands or land publicly owned for recreation or conservation purposes—the MBTA community may propose a multi-family use district that has less than one-half of its land area within 0.5 miles of a transit station. To the maximum extent feasible, the land areas within such a district should be easily accessible to the transit station based on existing street patterns, pedestrian connections, and bicycle lanes.

c. MBTA communities with no land area within 0.5 miles of a transit station

When an MBTA community has no land area within 0.5 mile of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

9. Determinations of Compliance

DHCD will make determinations of compliance with Section 3A upon request from an MBTA community, in accordance with the following criteria and schedule. An MBTA community may receive a determination of full compliance when it has a multi-family district that meets all of the requirements of Section 3A. An MBTA community may receive a determination of interim compliance for a limited duration to allow time to enact a new multi-family district or amend an existing zoning district in order to achieve full compliance with Section 3A.

a. Requests for determination of compliance

When an MBTA community believes it has a multi-family district that complies with the requirements for Section 3A, as set forth in these guidelines, it may request a determination of compliance from DHCD. Such a request may be made for a multi-family district that was in existence on the date that Section 3A became law, or for a multi-family district that was created or amended after the enactment of Section 3A. In either case, such request shall be made on a form required by DHCD and shall include, at a minimum, the following information, which shall be provided in a format or on a template prescribed by DHCD:

General district information

- i. A map showing the municipal boundaries and the boundaries of the multi-family district; ii. A copy of those provisions in the municipal zoning code necessary to determine the uses permitted as of right in the multi-family district and the dimensional limitation and requirements applicable in the multi-family district;
- iii. A plan showing the boundaries of each parcel of land located within the district, and the area and ownership of each parcel as indicated on current assessor records;

Location of districts

- iv. A map showing the location of the nearest transit station and how much of the multi-family district is within 0.5 miles of that transit station;
- v. In cases where no portion of the multi-family district is located within 0.5 miles of a transit station, a statement describing how the development of new multi-family housing within the district would be consistent with the Commonwealth's sustainable development principles;

Reasonable size metrics

- vi. A calculation of the total land area within the multi-family district;
- vii. A calculation of the multi-family district's unit capacity, along with a statement describing the methodology by which unit capacity was determined, together with;
 - a. A description of the water and wastewater infrastructure serving the district, and whether that infrastructure is sufficient to serve any new multi-family units included in the unit capacity;
 - b. A description of any known physical conditions, legal restrictions or regulatory requirements that would restrict or limit the development of multi-family housing within the district;

- c. The number and age of multi-family housing units already existing within the multifamily district, if any.

District gross density

- viii. The gross density for the multi-family district, calculated in accordance with section 6 of these guidelines.

Housing suitable for families

- ix. An attestation that the zoning bylaw or ordinance does not place any limits or restrictions on the size of the units, the number of bedrooms, the size of bedrooms, or the number of occupants in multi-family housing units within the multi-family district.

Attestation

- x. An attestation that the application is accurate and complete, signed by the MBTA community's chief executive officer.

As soon as practical after receipt of a request for determination of compliance, DHCD will either send the requesting MBTA community a notice that it has provided all of the required information, or identify the additional information that is required to process the request. Upon reviewing a complete application, DHCD will provide the MBTA community a written determination either stating that the existing multi-family use district complies with Section 3A, or identifying the reasons why the multifamily use district fails to comply with Section 3A and the steps that must be taken to achieve compliance.

An MBTA community shall be deemed to be in compliance with Section 3A for the period of time during which a request for determination of compliance, with all required information, is pending at DHCD.

b. Action plans and interim compliance—New or amended district

Many MBTA communities do not currently have a multi-family district of reasonable size that complies with all of the requirements set out in Section 3A and these guidelines. These MBTA communities must take affirmative steps towards the creation of a compliant multi-family district within a reasonable time. To achieve interim compliance, the MBTA community must, by no later than the dates specified in section 9.c, send to DHCD written notice that a new multi-family district, or amendment of an existing multi-family district, must be adopted to come into compliance with Section 3A. The MBTA community must then take the following actions to maintain interim compliance:

- i. *Creation of an action plan.* Each MBTA community must provide DHCD with a proposed action plan and timeline for any planning studies or community outreach activities it intends to undertake in order to adopt a multi-family district that complies with Section 3A. DHCD may approve or require changes to the proposed action plan and timeline by sending the MBTA community written notice of such approval or changes. Rapid transit communities and bus service communities must obtain DHCD approval of an action plan

by no later than March 31, 2023. Commuter rail communities and adjacent communities must obtain DHCD approval of a timeline and action plan by no later than July 1, 2023.

- ii. *Implementation of the action plan.* The MBTA community must timely achieve each of the milestones set forth in the DHCD-approved action plan, including but not limited to the drafting of the proposed zoning amendment and the commencement of public hearings on the proposed zoning amendment.
- iii. *Adoption of zoning amendment.* An MBTA community must adopt the zoning amendment by the date specified in the action plan and timeline approved by DHCD. For rapid transit communities and bus service communities, DHCD will not approve an action plan with an adoption date later than December 31, 2023. For commuter rail communities and adjacent communities, DHCD will not approve an action plan with an adoption date later than December 31, 2024.
- iv. *Determination of full compliance.* Within [90] days after adoption of the zoning amendment, the MBTA community must submit to DHCD a complete application requesting a determination of full compliance. The application must include data and analysis demonstrating that a district complies with all of the compliance criteria set forth in these guidelines, including without limitation the district's land area, unit capacity, gross density and location.

During the period that an MBTA community is creating and implementing its action plan, DHCD will endeavor to respond to inquiries about whether a proposed zoning amendment will create a multifamily district that complies with Section 3A. However, DHCD will issue a determination of full compliance only after final adoption of the proposed zoning amendment and receipt of a complete application demonstrating the unit capacity.

c. Timeframes for submissions by MBTA communities

To remain in interim compliance with Section 3A, an MBTA community must take one of the following actions by no later than December 31, 2022:

- i. Submit a complete request for a determination of compliance as set forth in section 9.a above; or
- ii. Notify DHCD that there is no existing multi-family district that fully complies with these guidelines, and submit a proposed action plan as described in section 9.b above.

10. Renewals and Rescission of a Determination of Compliance

a. Term and renewal of a determination of compliance

A determination of compliance shall have a term of 10 years. Each MBTA community shall apply to renew its certificate of compliance at least 6 months prior to its expiration. DHCD may require, as a condition of renewal, that the MBTA community report on the production of new housing within MBTA community, and in the multi-family district that was the basis for compliance. Applications for renewal shall be made on a form proscribed by DHCD.

b. Rescission of a determination of compliance

DHCD reserves the right to rescind a determination of compliance if DHCD determines that (i) the MBTA community submitted inaccurate information in its application for a determination of compliance, (ii) the MBTA community amended its zoning or enacted a general bylaw or other rule or regulation that materially alters the Unit capacity in the applicable multi-family use district.

11. Effect of Noncompliance

If at any point DHCD determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or (iii) the MassWorks infrastructure program established in section 63 of chapter 23A. DHCD may, in its discretion, take noncompliance into consideration when making other discretionary grant awards.

MBTA COMMUNITY MULTI-FAMILY HOUSING

Wednesday, February 16, 2022

Massachusetts Municipal Lawyers Association

Panel Members:

Donna M. Brewer, Esq., Miyares and Harrington, LLP

Susan Murphy, Esq., Dain, Torpy, Le Ray, Wiest & Garner, P.C

Barbara Saint Andre, Esq., Director, Medway Community and Economic Development

MGL Chapter 40A, Section 3A

(a)(1) An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall:

(i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and

(ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from:

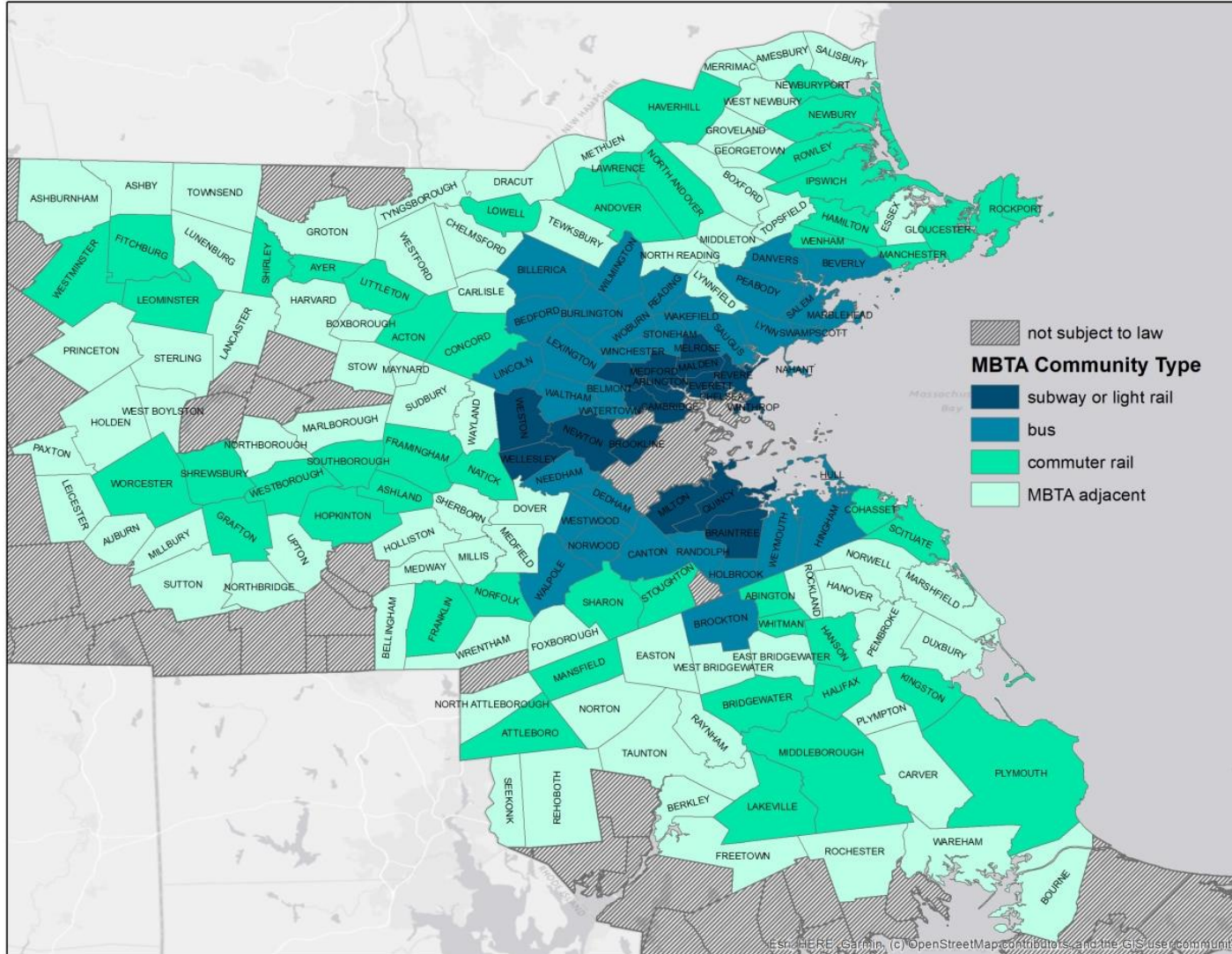
(i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017;

(ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or

(iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

(c) The department, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.

MBTA COMMUNITIES



“**MBTA community**” means a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.

“**Rapid transit community**” means an MBTA community with a subway station within its borders, or within 0.5 mile of its border. An MBTA community with a subway station within its borders, or within 0.5 mile of its border, shall be deemed to be a rapid transit community even if there is one or more commuter rail stations or MBTA bus lines located in that community.

“**Bus service community**” means an MBTA community with a bus station within its borders or within 0.5 miles of its border, **OR** an MBTA bus stop within its borders, and no subway station or commuter rail station within its border, or within 0.5 mile of its border.

“**Commuter rail community**” means an MBTA community with a commuter rail station within its borders, or within 0.5 mile of its border, and no subway station within its borders, or within 0.5 mile of its border.

“**Adjacent community**” means an MBTA community with no transit station within its border or within 0.5 mile of its border.

Source: Mass.gov - Multi-family Zoning Requirements for MBTA Communities

MULTI-FAMILY HOUSING

G.L. c. 40A, Section 1A defines “**multi-family housing**” as:

“a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than one residential dwelling unit in each building.”

Draft Guidelines define “**multi-family district**” as:

“a zoning district, including an overlay district, in which multi-family uses are allowed by right.”

Department of Housing and Community Development
**DRAFT Compliance Guidelines for Multi-family Districts
Under Section 3A of the Zoning Act**

DHCD issued Draft Guidelines on December 15, 2021

DHCD is accepting comments on the Draft Guidelines until **March 31, 2022**.

While the Draft Guidelines are under review, each MBTA community must take the following steps to remain in compliance with chapter 40A, §3A and be eligible for funding under the three programs listed above:

- Hold a briefing of the Select Board, City Council or Town Council on the Draft Guidelines no later than **May 2, 2022**; and
- Submit the MBTA Community Information Form by **May 2, 2022**.

TIMELINE FOR COMPLIANCE

To remain in compliance, each MBTA community must do one of the following no later than **December 31, 2022**:

- Submit a complete request for determination of compliance (i.e., submit information as outlined in the Guidelines demonstrating that the community has established a multi-family zoning district that complies with chapter 40A, §3A); or
- Submit a proposed action plan as provided for in the Guidelines (i.e., send written notice to DHCD that a multi-family zoning district must be adopted, and a proposed action plan and timeline for planning activities, community outreach, drafting zoning amendments, public hearings, legislative action, and other steps to establish a multi-family zoning district that complies with chapter 40A, §3A)
- DHCD will endeavor to respond to inquiries during the action plan period with informal advice as to whether proposed zoning will comply with c. 40A, §3A

MBTA COMMUNITY MULTI-FAMILY ZONING DISTRICT

QUANTUM OF VOTE

M.G.L. C. 40A, §5 - ADOPTION OR CHANGE OF ZONING
ORDINANCES OR BY-LAWS; PROCEDURE
(Amended as part of Chapter 358 of the Acts of 2020)

M.G.L. C. 40A, §1A
DEFINITIONS

The following shall be adopted by a vote of a simple majority [rather than 2/3] of all members of the town council or of the city council where there is a commission form of government or a single branch or of each branch where there are 2 branches or by a vote of a simple majority of town meeting:

(I) an amendment to a zoning ordinance or by-law to allow any of the following as of right:

- (a) multifamily housing or mixed-use development in an eligible location;
- (b) accessory dwelling units, whether within the principal dwelling or a detached structure on the same lot; or
- (c) open-space residential development.

“Eligible locations”, areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed-use smart growth zoning districts or starter home zoning districts, including without limitation:

- (i) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; or
- (ii) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns and existing rural village districts.

ALLOWING MULTI-FAMILY HOUSING “AS OF RIGHT”

Per the Draft Guidelines:

To comply with Section 3A, a multi-family district must allow multi-family housing **“as of right”** meaning the construction and occupancy of **multi-family housing** is allowed in that district without the need to obtain any discretionary permit or approval.*

*Definition in Draft Guidelines only paraphrases the definition in MGL 40A, §1A:

“As of right” - development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver or other discretionary zoning approval.

SITE PLAN REVIEW OF “AS OF RIGHT” USE

Per the Draft Guidelines:

Site plan review and approval may be required for multi-family uses allowed as of right.

Site plan approval may regulate matters such as vehicular access and circulation on a site, architectural design of a building, and screening of adjacent properties.

Site plan review may not be used to deny a project that is allowed as of right*, nor may it impose conditions that make it infeasible or impractical to proceed with a multi-family use that is allowed as of right.

*As a general rule site plan review may not be denied; but see *Prudential Ins. Co. of America v. Bd. of Appeals of Westwood*, 23 Mass.App.Ct. 278, n.9 (1986):

“A board may lawfully reject a site plan that **[(a)]** fails to furnish adequate information on the various considerations imposed by the by-law as conditions of the approval of the plan... **[or (b)]** In some cases, the site plan, although proper in form, may be so intrusive on the needs of the public in one regulated aspect or another that rejection by the board would be tenable.” (brackets added)

“The judge was essentially to examine the proposal to see if the traffic problem was so intractable that it could admit of no reasonable solution.” *Id.* at 283 (emphasis added)

SUITABILITY FOR FAMILIES WITH CHILDREN

Section 3A states that a compliant multi-family district must be **without age restrictions** and must be **suitable for families with children**.

Per Draft Guidelines:

“Housing suitable for families” means housing comprised of residential dwelling units that are not age-restricted housing, and for which there are no legal restriction on the number of bedrooms, the size of bedrooms, or the number of occupants.

“Age-restricted housing” means any housing unit encumbered by a title restriction requiring occupancy by at least one person age 55 or older.

LIMITATIONS ON MULTI-FAMILY DISTRICT ZONING REGULATIONS

Per the Draft Guidelines:

DHCD will deem a multi-family district to comply with these requirements as long as the zoning:

- does not require multi-family uses to include units with age restrictions and
- does not place any limits or restrictions on:
 - the size of the units*
 - the number of bedrooms
 - the size of bedrooms*, or
 - the number of occupants

*See Massachusetts State Sanitary Code (105 CMR 410):

410.400: Minimum Square Footage

(A) Every dwelling unit shall contain at least 150 square feet of floor space for its first occupant, and at least 100 square feet of floor space for each additional occupant, the floor space to be calculated on the basis of total habitable room area.

(B) In a dwelling unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant.

(C) In a rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor space; every room occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet for each occupant.

EFFECT OF NONCOMPLIANCE

MGL Ch. 40A, § 3A:

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from:

- (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017;
- (ii) the Local Capital Projects Fund established in section 2E of chapter 29; or
- (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

NOTE: Section 3A(c) authorizes the promulgation of guidelines “to determine if an MBTA community is in compliance with this section.” Section 3A(b) lists specific state funds that are affected based on compliance with Section 3A.

Draft Guidelines:

If at any point DHCD determines that an MBTA community is not in compliance with Section 3A, that MBTA community will not be eligible for funds from the following grant programs*:

- (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017;
- (ii) the Local Capital Projects Fund established in section 2E of chapter 29; or
- (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

DHCD may, in its discretion, take non-compliance into consideration when making other discretionary grant awards.**

*The Local Capital Projects Fund is not a grant program

**Section 3 only restricts eligibility for the funds listed in (i), (ii) and (iii) as the consequence for failure to comply.

STATE FUNDS AFFECTED BY NONCOMPLIANCE: HOUSING CHOICE INITIATIVE

(i) **The Housing Choice Initiative** (<https://www.mass.gov/housing-choice-designation-and-grants>)

(Summary of FY2023 Program; subject to change)

The Housing Choice Community Grant Program rewards municipalities that have produced a significant number of housing units* in the last five years and that have adopted or established Best Practices that encourage housing production. (emphasis added)

***“significant number of housing units”** - The Housing Choice designation is based on PRODUCTION OF NEW YEAR-ROUND housing units over the last 5 years. The threshold for qualifications is a 5% increase (or 500 units), or a 3% increase (or 300 units) and best practices.

“Activities may include capital projects such as construction, modernization, or major repair of physical infrastructure, acquisition of property or interests in property; long-lived equipment; or feasibility, engineering or schematic designs for capital projects. Planning and zoning projects may also be funded by this program.”

For FY2023, approximately \$4 Million is available in grants for qualifying municipalities. **Grants in this category will likely be \$25,000-\$250,000.**

NOTES: If units are created in a communities in compliance with the Grant Program Guidelines, those communities are eligible to become Housing Choice Communities, however:

- a. Adopting the MBTA Community zoning alone does not qualify a community for grant funds. The community must first earn Housing Choice designation which includes creation of the “significant number of housing units” (defined above). Adopting the multi-family housing district will be the gatekeep prerequisite to eligibility.
- b. ***This is a temporary designation.*** It depends on housing creation and communities fall off this list after five years if unit creation is not sustained year after year.

STATE FUNDS AFFECTED BY NONCOMPLIANCE: LOCAL CAPITAL PROJECT FUNDS

(ii) Local Capital Projects Fund established in section 2EEEE of chapter 29

There shall be established and set up on the books of the commonwealth a Local Capital Projects Fund. The fund shall be credited with any funds transferred from the Gaming Revenue Fund established in section 59 of chapter 23K and any monies credited to or transferred to the fund from any other fund or source.

Notes:

- a. The Local Capital Project Fund is a state budget source, not a “grant program” – there is no “application” a community can submit to the state to obtain “Local Capital Project Funds”.
- b. It is not yet clear all of the state budget line items or programs that are funded in whole or in part by the Local Capital Projects Fund, but efforts are being made to clarify this question. To date, the following has been learned:
 - For the last few years, the Local Capital Project Fund was used to partially fund an appropriation in the state budget for local housing authorities. Governor Baker’s proposed budget for FY23 continues this use:
 - In FY14, FY15, it appears that 100% of the Local Capital Projects Fund was applied to the MassWorks infrastructure program (with some limited earmarked appropriations).
- c. There is no way to predict where the state will appropriate the Local Capital Project Fund in the future so past appropriation may not provide an indication of future impact of this statutory provision on MBTA Communities.

STATE FUNDS AFFECTED BY NONCOMPLIANCE: MASSWORKS INFRASTRUCTURE PROGRAM

(iii) The MassWorks infrastructure program established in section 63 of chapter 23A.

Per M.G.L. ch. 23A, §63, the primary purpose of the MassWorks Program is: to issue grants to municipalities and other public instrumentalities for design, construction, building, land acquisition, rehabilitation, repair and other improvements to publicly-owned infrastructure including, but not limited to, sewers, utility extensions, streets, roads, curb-cuts, parking, water treatment systems, telecommunications systems, transit improvements, public parks and spaces within urban renewal districts, and pedestrian and bicycle ways.

Source: [FY2023 MassWorks Program Guidelines](#)

Allowable Use of Funds - Applicants may request capital grant funds for predevelopment activities and/or to cover any and all reasonable direct costs associated with the proposed improvements to the public infrastructure, including pre-construction expenses, direct construction costs, and the expenses for project administration...Funds may generally be used for the following types of expenses:

- Predevelopment: Engineering documents, pre-permitting, proforma development, due diligence, etc.
- Pre-Construction: Design, final engineering/surveying, permitting, bidding, etc.
- Direct Construction: All earthwork and/or site work (for example, demolition, sidewalk and road construction, utility relocation, traffic signals, water/sewer extensions, bridge/culvert repairs, etc.)
- Construction Administration: Project management, traffic control, public safety details, etc.

Maximum Award Amount - There is no set maximum or minimum amount that an applicant may request for a MassWorks grant, except in the case of STRAP [small town road project] awards [\$1,000,000 cap], or as might otherwise be dictated by statute.

DETERMINING REASONABLE SIZE: DEFINITIONS

In making determinations of “reasonable size,” DHCD will take into consideration

- the area of the district and
- the district’s multi-family unit capacity (that is, the number of units of multi-family housing that can be developed as of right within the district).

Guideline Definitions:

“Reasonable size” means not less than 50 contiguous acres of land with a unit capacity equal to or greater than the unit capacity specified in section 5 [of the Guidelines].

Section 3.b of Guidelines:

“Reasonable size” is a relative rather than an absolute determination. Because of the diversity of MBTA communities, a multi-family district that is “reasonable” in one city or town may not be reasonable in another city or town. Objective differences in community characteristics must be considered in determining what is “reasonable” for each community.

DETERMINING REASONABLE SIZE: MINIMUM LAND AREA

The Draft Guidelines' interpretation: Section 3A's requirement that a multi-family district be a "reasonable size" indicates that the purpose of the statute is to encourage zoning that allows for the development of a reasonable amount of multi-family housing in each MBTA community.

Section 3A does not define "reasonable size". The Draft Guidelines say that **a multi-family district must comprise at least 50 acres of land**—or approximately one-tenth of the land area within 0.5 mile of a transit station.

- A district should not be a single development site on which the municipality is willing to permit a particular multi-family project.
- An overlay district is permitted, provided at least one portion of the overlay district is at least 25 contiguous acres.
- No portion of the district that is less than 5 contiguous acres will count toward the minimum (50 acre) size requirement.

DETERMINING REASONABLE SIZE: MINIMUM MULTI-FAMILY UNIT CAPACITY

Section 3A requirement: gross density of 15 units per acre, subject to any further limitations imposed by wetlands regulations and Title 5

Draft Guidelines requirements: “a reasonable number of multi-family housing units”

- *District's unit capacity* = a number of units equal to or greater than a specified percentage of the total number of housing units within the community. The required percentage will depend on the type of transit service in the community.
- Regardless of community size, a minimum district capacity of 750 units is required.

MBTA Communities - Cohort Designations and Capacity Calculations

Show 5 entries

Search: Lancaster

Municipality	MBTA Community Type	2020 Housing Units (Census PL-94)	Minimum multifamily district unit capacity requirement
Lancaster	MBTA adjacent	2,788	750*

Showing 1 to 1 of 1 entries (filtered from 175 total entries)

Previous 1 Next

* MBTA communities with a unit capacity lower than 750 units are noted as having a unit capacity of 750. This is the fewest number of multi-family units needed to meet the gross density requirement of 15 units per acre (i.e. 50 acres x 15 units per acre).

Category	Minimum multi-family units as a percentage of total housing stock
Rapid transit community	25%
Bus service community	20%
Commuter rail community	15%
Adjacent community	10%

Show 5 entries

Search: Wellesley

Municipality	MBTA Community Type	2020 Housing Units (Census PL-94)	Minimum multifamily district unit capacity requirement
Wellesley	subway or light rail	9,282	2,321

Source: [Mass.gov - Multi-family Zoning Requirements for MBTA Communities](#)

DETERMINING REASONABLE SIZE: DETERMINING UNIT CAPACITY WITHIN THE MULTI-FAMILY ZONING DISTRICT

Draft Guidelines:

When determining the unit capacity for a specific multi-family district, each MBTA community must estimate how many units of multi-family housing could be constructed on each parcel of developable land within the district.

Parcel is not defined; Lot is defined in Chapter 40A §1A as “an area of land with definite boundaries that is used or available for use as the site of a building or buildings.” Is “parcel” intended to be different than “lot”? If so, what is a parcel?

- The estimate should take into account the amount of developable land in the district*
- **“Developable land”** means land on which multi-family housing units have been or can be permitted and constructed. Developable land shall **not** include land under water, wetland resource areas, areas lacking adequate water or wastewater infrastructure or capacity, publicly owned land that is dedicated to existing public uses, or privately owned land encumbered by any kind of use restriction that prohibits residential use.*

DETERMINING REASONABLE SIZE: DETERMINING UNIT CAPACITY WITHIN THE MULTI-FAMILY ZONING DISTRICT (cont.)

The estimate must take into account for each parcel:

- Zoning requirements, including height limitations, lot coverage limitations, maximum floor area ratio, set back requirements and parking space requirements, lot shape factor, other restrictions applicable in that district under the zoning ordinance or by-law
- Restrictions and limitations set forth in any other municipal by-laws or ordinances
- Examples: Local wetlands protection; tree preservation; stormwater

DETERMINING REASONABLE SIZE: DETERMINING UNIT CAPACITY WITHIN THE MULTI-FAMILY ZONING DISTRICT (cont.)

The estimate must take into account for each parcel:

- Limitations on development resulting from inadequate water or wastewater infrastructure*, and, in areas not served by public sewer, any applicable limitations under Title 5 of the state environmental code or local septic regulations;
- “Known” title restrictions on use of the land within the district;
- Known limitations, if any, on the development of new multi-family housing within the district based on physical conditions such the presence of waterbodies, and wetlands.

*Is this capacity, physical infrastructure, or both? Determining water and sewer capacity can be tricky.

DETERMINING REASONABLE SIZE: DETERMINING UNIT CAPACITY WITHIN THE MULTI-FAMILY ZONING DISTRICT (cont.)

Draft Guidelines:

If the estimate of the number of multi-family units that can be constructed in the multi-family district is less than the minimum unit capacity, then the MBTA community must change the boundaries of the multi-family district or make changes to dimensional regulations applicable to that district (or to other local ordinances or bylaws) to allow for the development of a greater number of multi-family units as of right.

DETERMINING REASONABLE SIZE: DETERMINING UNIT CAPACITY WITHIN THE MULTI-FAMILY ZONING DISTRICT (cont.)

The statute and Draft Guidelines do not mandate the construction of any specified number of housing units; it is only required that there be a multi-family zoning district of reasonable size.

“There is no requirement nor expectation that a multi-family district will be built out to its full unit capacity.”

Multi-family districts may include parcels with existing multi-family units, so long as the multi-family zoning district complies with the statute and Guidelines when finalized.

(Note – existing units do not have to comply with the new zoning; remember, it is the zoning that counts, not what is on the ground.)

MINIMUM GROSS DENSITY

Section 3A requires:

A compliant multi-family district must have a **minimum gross density** of **15 units per acre**, subject to any further limitations imposed by section 40 of chapter 131 [Wetlands Act] and title 5 of the state environmental code established pursuant to section 13 of chapter 21A [septic systems].

“Gross density” means a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial, and other nonresidential uses.

Examples of ~15 Units Per Acre:



Source: *The Urbanist* illustrating new mixed-housing-type subdivision at ~15 units per acre



Westwood, MA



Norfolk, MA



Sudbury, MA



Lexington, MA

Credit: Amy Dain

Source: [Mass.gov](#) - Multi-family Zoning Requirements for MBTA Communities

MINIMUM GROSS DENSITY (cont.)

Draft Guidelines provide that:

DHCD will deem a zoning district to be compliant with Section 3A's minimum gross density requirement if the following criteria are met.

a. District-wide gross density

- a multi-family district—not just the individual parcels of land within the district—must have a minimum gross density of 15 units per acre, subject to wetland and Title 5 regulations
- To comply, the zoning must legally and practically allow for a district-wide gross density of 15 units per acre.
- This calculation must include “land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.”

Draft Guidelines Example: To meet that requirement for a 50-acre multi-family district, the municipality must show at least 15 existing or potential new multi-family units per acre, or a total of at least 750 existing or potential new multi-family units.

b. Achieving district-wide gross density by sub-districts

- an MBTA community may establish sub-districts within a multi-family district, with different density requirements and limitations for each sub-district, provided that the gross density for the district as a whole meets the statutory requirement of not less than 15 multi-family units per acre.

BREAKING DOWN THE DISTRICT AND UNIT REQUIREMENTS

Section 3A Simply Requires:

An MBTA community shall have a zoning ordinance or by-law that provides for **at least 1 district of reasonable size**

For the purposes of this section, a district of reasonable size shall:

have a **minimum gross density of 15 units per acre**, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A;

Draft Guidelines interpret that to mean:

Reasonable size* = **at least 50 acres** without regard to size (land area or population) of community but, *if the natural environment of the community won't allow for 15 units per acre on 50 acres, or the community's multiplier makes 50 acres impractical without high-rise buildings, an even larger zoning district will be required.

then the Guidelines layer on top of the statutory requirements the following:

- Designation of “types” of MBTA communities and a “multiplier” for each type of MBTA community based on 2020 census housing stock
- Because a minimum of 50 acres is uniformly applied (and Section 3A requires 15 units per acre), smaller communities with less housing units (typically most non-urban “adjacent” communities with no transit stations or bus stops) must have a minimum of 750 units (resulting in a much higher % of multi-family housing in relation to its overall housing stock)
- Likewise, in many larger communities that have existing multi-family housing outside of the 0.5 radius, the 50-acre minimum, combined with the housing stock multiplier, will result in a much higher % of multi-family housing in relation to overall housing stock. In non-urban communities, this would result in a fundamental change in the character of communities.

Question: Is the structure of these additional requirements consistent with Chapter 3A or with the stated goal that “MBTA communities should adopt multi-family districts that will lead to development of multi-family housing projects of a scale, density and character that are consistent with a community’s long-term planning goals.”

LOCATION OF DISTRICTS: GENERAL RULE

Section 3A states:

A district of reasonable size ...shall be located **not more than 0.5 miles** from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

The Draft Guidelines state:

DHCD will interpret that requirement consistent with the following guidelines:

1. General rule for measuring distance from a transit station.

The distance from a transit station may be **measured from the boundary of any parcel of land owned by a public entity and used for purposes related to the transit station**, such as an access roadway or parking lot.



LOCATION OF DISTRICTS: SOME LAND AREA WITHIN 0.5 MILES OF A TRANSIT STATION

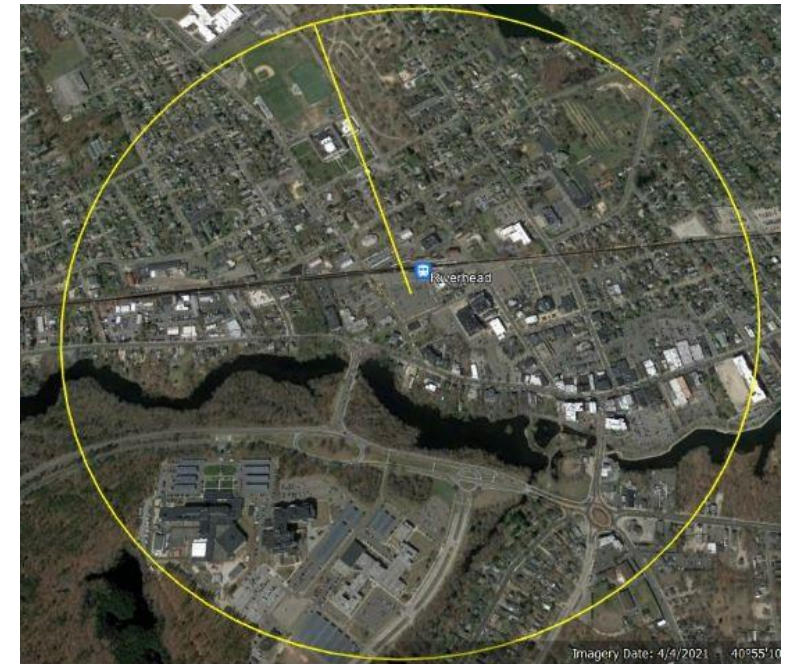
2. MBTA communities with some land area within 0.5 miles of a transit station

An MBTA community that has a transit station within its boundaries, or some land area within 0.5 mile of a transit station located in another MBTA community:

- District is in compliance if a substantial portion of the multi-family district is located within the 0.5-mile distance
- Absent compelling circumstances, at least $\frac{1}{2}$ of the land area of the district should be located within 0.5 mile of the transit station.
- District may include land areas that are further than 0.5 mile from the transit station, provided that such areas are easily accessible to the transit station based on existing street patterns and pedestrian connections.

(continued on next slide)

Note: This station is not in MA and is for example purposes only.



Ruler

Line	Path	Polygon	Circle	3D path	3D polygon
Measure the circumference or area of a circle on the ground					
Radius:		0.50		Miles	
Area:		501.72		Acres	

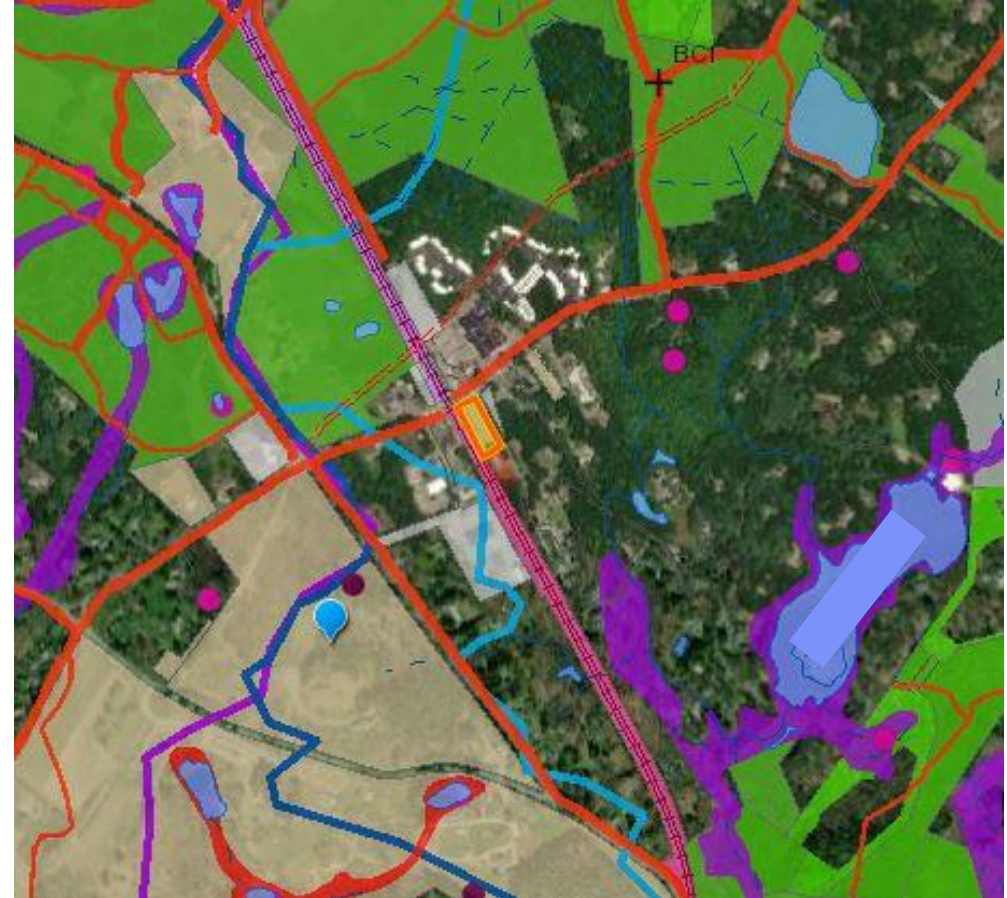
Source: Google Earth Pro

LOCATION OF DISTRICTS: SOME LAND AREA WITHIN 0.5 MILES OF A TRANSIT STATION (cont.)

2. MBTA communities with some land area within 0.5 miles of a transit station (cont.)

An MBTA community that has a transit station within its boundaries, or some land area within 0.5 mile of a transit station located in another MBTA community:

- **Where none of the land area within 0.5 mile of transit station is appropriate for development of multi-family housing** (e.g. wetlands, parks, conservation land), the community may propose a district less than $\frac{1}{2}$ of its land area within a 0.5 mile of a transit station.
 - To the maximum extent feasible, the land areas within such a district should be easily accessible to the transit station based on existing street patterns, pedestrian connections, and bicycle lanes.



Notes: Based on public information; for discussion purposes only

- Shaded areas are public or protected lands, wetlands, flood plain
- Based on 2020 housing units with multiplier applied, calculation would be substantially below 750 units, but Draft Guidelines impose mandatory minimum of 750 units.

LOCATION OF DISTRICTS: NO LAND AREA WITHIN 0.5 MILES OF A TRANSIT STATION

For “Adjacent Communities”

Chapter 40A, §3A does not place any restriction on the location of the multi-family zoning district for communities that do not have land area within 0.5 mile of a transit station. The Draft Guidelines, however, provide the following:

When an MBTA community has no land area within 0.5 mile of a transit station, the multi-family district should, if feasible, be located in an area with reasonable access to a transit station based on existing street patterns, pedestrian connections, and bicycle lanes, or in an area that otherwise is consistent with the Commonwealth’s sustainable development principles—for example, near an existing downtown or village center, near an RTA bus stop or line, or in a location with existing under-utilized facilities that can be redeveloped into new multi-family housing.

LOCATION OF DISTRICTS: NO LAND AREA WITHIN 0.5 MILES OF A TRANSIT STATION (cont.)

“Commonwealth’s sustainable development principles” means the principles set forth at <https://www.mass.gov/files/documents/2017/11/01/sustainable%20development%20principles.pdf> as such principles may be modified and updated from time to time.

Sustainable Development Principles include:

- Concentrate Development and mix uses
- Advance Equity
- Make Efficient Decisions
- Protect Land and Ecosystems
- Use Natural Resources Wisely
- Expand Housing Opportunities
- Provide Transportation Choice
- Increase Job and Business Opportunities
- Promote Clean Energy
- Plan Regionally

RECOMMENDED STEPS:

1. CREATE A CALENDAR

The Guidelines set forth DHCD's deadlines for maintaining interim compliance and achieving full compliance. Using those benchmarks, each community should create a calendar that includes all of the steps necessary to move the public discussion and proposed zoning amendments through your community's local process.

- May 2, 2022
 - ✓ Present draft guidelines to Select Board, City Council, Town Council
 - ✓ Submit MBTA Community Information Form to DHCD
 - ✓ Submit updated GIS maps if notified by DHCD to do so
- May-December 2022
 - ✓ Analyze current zoning
 - ✓ Hold public hearings on zoning changes
 - ✓ Determine zoning amendments necessary to comply
- December 31, 2022
 - ✓ submit action plan or request for compliance determination to DHCD

- Upon receipt of approval of Action Plan by DHCD, due between March and July 2023 (G.L. c. 40A, § 5)
 - ✓ Present zoning amendments to Planning Board/City Council/Select Board
 - ✓ hold hearings within 65 days of submission but after publication in a newspaper not less than 14 days beforehand
 - ✓ board issues report with recommendations to Town Meeting or City Council or 120 days passes after hearing
 - ✓ vote must be taken by city council within 90 days of council hearing or by Town Meeting within 6 months of board hearing
- December 31, 2023* Subway and bus communities must adopt
- December 31, 2024 Commuter rail and adjacent communities must adopt

***Note:** For subway and bus communities that legislate by Annual Town Meeting (with no fall Special Town Meeting), December 31, 2023 does not take into account the realistic timeframes for these communities to draft, socialize in the community, and undertake the statutory requirements for adoption of zoning amendments.

RECOMMENDED STEPS: 2. REVIEW EXISTING ZONING AND HOUSING

- Is there an existing multi-family housing zoning district in your community? If yes:
 - Is the use allowed as of right?
 - How many acres does it comprise? Does it allow for 15 units per acre and/or the minimum multi-family unit capacity?
 - How much of the district is within 0.5 miles of a transit station (or, if applicable, in an area that allows for easy travel to a transit station)?
 - How many existing multifamily housing units are within the existing district and/or could reasonably be developed within the existing district?
- A request to DHCD for a determination of compliance may be made for a multi-family district that was in existence on the date that Section 3A became law.
- If current zoning is not as of right and/or the number of qualifying multi-family housing units is insufficient:
 - Are existing regulations sufficient to change directly to an as of right use, or what amendments are needed?

For example, when were site plan review performance standards and parking requirements last reviewed and updated?

RECOMMENDED STEPS:

4. CONSIDER ZONING DISTRICT OPTIONS

First: location, location, location

- Study existing land uses, including location of existing multi-family structures, and land that would be suitable for multi-family.
- If there is land area within .5 miles of a transit station, look at that area first in order to comply with requirement that at least half of the district must be within .5 miles. If there is more than one transit station within .5 miles, look at each'; the Draft Guidelines allow part of the district near each station.
- Consider enacting a specific multi-family housing district, must be at least 50 acres. Can include sub-districts, so long as overall density is 15 units/acre.
- Overlay districts provide flexibility and can allow the underlying zoning as well.
- Draft Guidelines require at least one area of 25 contiguous acres, and no part of the district can be less than 5 acres.

RECOMMENDED STEPS:

5. CONSIDER ZONING DISTRICT REQUIREMENTS

Determine the zoning regulations to include for the district.

- The statute does not contain any requirement for an affordable housing component. An affordability provision is usually desirable. If you have an existing inclusionary zoning provision, that can be applied to the multi-family district. If not, consider an affordable housing requirement for the multi-family housing district.
- Consider carefully the dimensional requirements to achieve the required 15 units per acre while encouraging multi-family housing that will be an asset to the community.
- Consider including other provisions found in your zoning, whether FAR, electric vehicle stations, tree preservation, stormwater, etc. in the multi-family zoning as part of the “by right” zoning. “By right” does not mean no regulations, but be aware of how it impacts the density calculation.
- Mixed-use is allowed in the multi-family zone so long as the multi-family housing density works.

RECOMMENDED STEPS:

5. CONSIDER ZONING DISTRICT REQUIREMENTS

What about existing multi-family housing?

- If there is existing multi-family housing in the proposed district that was allowed by special permit, incorporate any provisions that applied to the special permit in the new zoning. Also, remember that site plan review can (and should) apply.
- If there is existing multi-family housing in the proposed district that was allowed by a comprehensive permit, will it be in compliance with the new zoning? Most comprehensive permits provide that the affordability and other conditions continue for so long as the development is not in compliance with local by-laws and ordinances.

HELPFUL LINKS

1. DHCD Resources: <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#review-the-draft-guidelines->
2. Mass Housing Partnership MBTA Zoning Compliance Technical Assistance: <https://www.mhp.net/community/complete-neighborhoods-initiative>
3. MAPC Materials: <https://www.mapc.org/resource-library/mbta-multifamily-zoning/>
4. Housing Choice Community Grants: <https://www.mass.gov/how-to/housing-choice-community-grant-program>
5. Mass Works Infrastructure Program: <https://www.mass.gov/service-details/massworks-infrastructure-program>

SUBMISSION OF COMMENTS TO DHCD

The MMLA is coordinating with the MMA to compile comments and questions on the draft Guidelines for submission to DHCD prior to the public comment period deadline of March 31, 2022.

1. If any MMLA member is interested in being on the working group compiling the comments, please contact james.lampke@lampkelaw.com no later than Friday, February 18th. Please indicate which type(s) of MBTA Community(ies) you represent (rapid transit, commuter rail, bus service, adjacent); and/or
2. Any MMLA member who wishes to have comments and questions (identified by you or your municipal clients) reviewed for inclusion in the MMLA's comprehensive comments, please submit them to james.lampke@lampkelaw.com no later than Tuesday, March 15th.

The MMLA plans to submit comments to DHCD in advance of the deadline and make them available to the membership so that any of your communities who wish to may send a letter supporting and/or supplementing the MMLA/MMA comments.

Q & A

From: [Lee Newman](#)
To: [Alexandra Clee](#)
Subject: FW: MBTA Guidelines - linked grants
Date: Friday, March 11, 2022 12:51:54 PM

Needham's receipts in recent years from the programs proposed to be linked to the draft DHCD MBTA Guidelines:

- (i) the Housing Choice Initiative "as described by the governor in a message to the general court dated December 11, 2017"
- (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; and
- (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

The Town's best information is:

- (i) the **Housing Choice Initiative** "as described by the governor in a message to the general court dated December 11, 2017"

None.

- (ii) the **Local Capital Projects Fund** established in section 2EEEE of chapter 29;

None.

- (iii) the **MassWorks** infrastructure program established in section 63 of chapter 23A.

\$1,423,442.48 over five years, see detail below.

MassWorks Infrastructure Grant detail:

The total amount of the grant eligible for reimbursement was \$1,675,000.00

The amount of funds spent and received are as follows:

Fiscal Year	Amount Expended	Amount of Reimbursement Received
FY17	\$ 61,464.03	\$ 54,721.00
FY18	\$ 1,054,034.63	\$ 864,840.80
FY19	\$ 307,943.82	\$ 406,594.15
FY20	\$ 0.00	\$ 97,286.53
TOTAL	\$1,423,442.48	\$1,423,442.48

NEEDHAM
ZONING BOARD OF APPEALS
AGENDA

THURSDAY, March 17, 2022 - 7:30PM

Zoom Meeting ID Number: 869-6475-7241

To view and participate in this virtual meeting on your computer, at the above date and time, go to www.zoom.us, click “Join a Meeting” and enter the Meeting ID: 869-6475-7241
Or joint the meeting at link: <https://us02web.zoom.us/j/86964757241>

AGENDA

- | | |
|------------------|---|
| Minutes | Review and approve Minutes from February 17, 2022 meeting. |
| Case #1 – 7:30PM | 26 Ardmore Road –26 Ardmore Road, LLC, applicant, applied to the Board of Appeals for a Special Permit under Sections 6.1.2 and any other applicable Sections of the By-Law to allow one additional garage space. This request is associated with the demolition and reconstruction of a new single-family home with an attached garage. The property is located at 26 Ardmore Road, Needham, MA in the Single Residence B (SRB) District. (Continued from February 17, 2022) |
| Case #2 – 7:45PM | 32 Mark Lee Road - Wes and Lauren Soper, owners, have appealed a decision of a Building Inspector dated December 17, 2021 determining that a proposed addition and garage do not comply with setback requirements of the Zoning By-Law. The subject property is a corner lot located at 32 Mark Lee Road, Needham MA in the Single Residence B (SRB) District. (Continued from January 20, 2022) |
| Case #3- 8:00PM | 1154 Great Plain Avenue- Public notice is hereby given that Charles River Ballet Academy, LLC, applicant, has applied to the Board of Appeals for a Special Permit under Sections 3.2.1, 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the Zoning By-Law to operate a ballet school and to waive strict adherence to parking and parking design requirements. The subject property is located at 1154 Great Plain Avenue, Needham MA in the Single Residence B (SRB) District. |
| Case #3 –8:15PM | 1183 Highland Avenue- Public notice is hereby given that Harvey Family Dental PLLC, applicant, has applied to the Board of Appeals for a Special Permit under Sections 5.1.1.5, 5.1.2, 5.1.3 and any other applicable Sections of the Zoning By-Law to waive strict adherence to parking and parking design requirements associated with the use of a dental practice. The subject property is located at 1183 Highland Avenue, Needham MA in the Single Residence B (SRB) District. |

Next Meeting: Thursday, April 28, 2022 at 7:30pm

Informal Matter

Governor Baker has extended Remote Public Meeting until July 15, 2022.
Discussion to meet in person or on Zoom for the months of April – June.

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

TELEPHONE (781) 449-4520

FAX (781) 465-6059

February 18, 2022

Town of Needham
Zoning Board of Appeals
Needham, Massachusetts 02492

Attn: Daphne M. Collins, Administrative Specialist

Re: Charles River Ballet Academy, LLC
1154 Great Plain Avenue Needham, MA
Special Permit Request

Dear Ms. Collins,

Please be advised this office represents Charles River Ballet Academy, LLC (hereinafter “Charles River Ballet”), and it’s principal, Emily Umland, with respect to the property known and numbered 1154 Great Plain Avenue, Needham, MA (hereinafter the “Premises”). In connection therewith, submitted herewith, please find the following:

1. Seven copies of a Completed Application for Hearing
2. Seven copies of plan entitled “Existing Conditions Survey, Congregational Church of Needham”, dated December 9, 2013, prepared by DiPrete Engineering, 990 Washington Street, Suite 101A, Dedham, MA 02026; and
5. Check in the amount of \$500 for the applicable filing fee.

For the past several years, Charles River Ballet has operated a private dance school at two locations in the Town of Needham; the First Parish Church, 23 Dedham Avenue, and the First Baptist Church, 858 Great Plain Avenue. As you may be aware, in late June 2021, the First Baptist Church voted to close the church, forcing Charles River Ballet to seek a new, replacement location.

After careful consideration, Charles River Ballet has chosen to relocate the First Baptist operation to the Congregational Church of Needham, 1154 Great Plain Avenue. In connection therewith, Section 3.2.1 of the Needham Zoning By-Law requires Charles River Ballet to obtain a special permit for a private school. In addition, although there is ample parking available on site to service the dance school (due to the number of spaces and the schedule of uses in the Church building), a parking waiver is required. This is because the total parking demand for all

the uses, added together (and including church worship), exceeds the number of spaces. However, the uses are not all active at the same time, and as a result, there are plenty of spaces available during the times when the dance school will be in operation. Moreover, the parking area, which pre-dates the adoption of the off-street parking rules, does not meet current design requirements, and therefore a design waiver is also required.

Kindly schedule this matter for the next hearing of the Board of Appeals. I will submit additional information detailing the uses in the building and the availability of parking prior to the hearing. In the meantime, if you have any comments, questions or concerns, or if you require any further information, please contact me so that I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "George Giunta, Jr.", with a stylized, cursive script.

George Giunta, Jr.



ZBA Application For Hearing

Applicants must consult with the Building Inspector prior to filing this Application. Failure to do so will delay the scheduling of the hearing.

Applicant Information

Applicant Name	Charles River Ballet Academy, LLC Emily Umland, Manager			Date: 2/18/22
Applicant Address	2 Walnut Park Road, Natick, MA 01760			
Phone	781-856-4073	email	info@charlesriverballet.com	
Applicant is ☐ Owner; ☒ Tenant; ☐ Purchaser; ☐ Other_____				
If not the owner, a letter from the owner certifying authorization to apply must be included				
Representative Name	George Giunta, Jr., Esq.			
Address	281 Chestnut Street, Needham, MA 02492			
Phone	617-840-3570	email	george.giuntajr@needhamlaw.net	
Representative is ☒ Attorney; ☐ Contractor; ☐ Architect; ☐ Other_____				
Contact ☐ Me ☒ Representative in connection with this application.				

Subject Property Information

Property Address	1154 Great Plain Avenue		
Map/Parcel Number	Map 132 / Parcel 89	Zone of Property	SRB (Single Residence B)
Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain? ☐ Yes ☒ No			
Is property ☐ Residential or ☒ Commercial			
If residential renovation, will renovation constitute "new construction"? ☐ Yes ☐ No			
If commercial, does the number of parking spaces meet the By-Law requirement? ☐ Yes ☒ No			
Do the spaces meet design requirements? ☐ Yes ☒ No			
Application Type (<i>select one</i>): ☒ Special Permit ☐ Variance ☐ Comprehensive Permit ☐ Amendment ☐ Appeal Building Inspector Decision			



ZBA Application For Hearing

Existing Conditions:

Existing Congregational Church of Needham facility with multiple tenants and uses, and accessory off-street parking lot.

Statement of Relief Sought:

1. Special Permit pursuant to Section 3.2.1 to permit a private school, namely, a dance school
2. Special Permit pursuant to Section 5.1.1.5 waiving strict adherence to the requirements of Section 5.1.2 (Required Parking) and Section 5.1.3 (Parking Plan and Design Requirements); and
3. All other relief necessary for the operation of a private dance school at the property known and numbered 1154 Great Plain Avenue.

Applicable Section(s) of the Zoning By-Law:

3.2.1, 5.1.1.5, 5.1.2, 5.1.3, 7.5.2 and any other applicable section or By-Law

If application under Zoning Section 1.4 above, list non-conformities:

	Existing Conditions	Proposed Conditions
Use		
# Dwelling Units		
Lot Area (<i>square feet</i>)		
Front Setback (<i>feet</i>)		
Rear Setback (<i>feet</i>)		
Left Setback (<i>feet</i>)		
Right Setback (<i>feet</i>)		
Frontage (<i>feet</i>)		
Lot Coverage (%)		
FAR (<i>Floor area divided by the lot area</i>)		
<i>Numbers must match those on the certified plot plan and supporting materials</i>		



ZBA Application For Hearing

Date Structure Constructed including additions:

Date Lot was created:

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions <i>(Required)</i>	
Application Fee, check made payable to the Town of Needham Check holders name, address, and phone number to appear on check and in the Memo line state: "ZBA Fee – Address of Subject Property" <i>(Required)</i>	
If applicant is tenant, letter of authorization from owner <i>(Required)</i>	
Electronic submission of the complete application with attachments <i>(Required)</i>	
Elevations of Proposed Conditions <i>(when necessary)</i>	
Floor Plans of Proposed Conditions <i>(when necessary)</i>	

Feel free to attach any additional information relative to the application.
Additional information may be requested by the Board at any time during the
application or hearing process.



I hereby request a hearing before the Needham Zoning Board of Appeals. I have
reviewed the Board Rules and instructions.

I certify that I have consulted with the Building Inspector February 8, 2022
date of consult

Date: February 18, 2022 Applicant Signature George Giunta Jr
by it's attorney
George Giunta, Jr., Esq.

*An application must be submitted to the Town Clerk's Office at
townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov*

Curve Table



Client
Congregational Church of Needham
1154 Great Plain Avenue, Needham, Massachusetts 02492

Drawn By: MTI



990 Washington Street Suite 101A | Dedham, MA 02026
tel 781-326-0021 fax 603-464-6006 www.DIPrete-Eng.com

Engineers • Planners • Surveyors



50 Salem Street
Building B, Suite 205
Lynnfield, MA 01940

Gregory R. Richard, Esq.
(Admitted in MA & NH)

Telephone: (781) 361-7292
Facsimile: (781) 361-7293
Email: greg@richardpclaw.com

February 18, 2022

VIA HAND DELIVERY

Town Clerk's Office
Needham Town Hall
1471 Highland Avenue
Needham, MA 02492

Re: ZBA Application – Special Permit for Waivers for Minimum Parking Requirements and Parking Design Requirements

Applicant: Harvey Family Dental PLLC

Premises: 1183 Highland Avenue

Dear Sir/Madam:

Enclosed herewith please find the ZBA Application for Hearing in connection with the above referenced matter. The following is also enclosed herewith in connection with the Application:

- (1) Plot Plan for the Premises
- (2) Proposed Floor Plan for the Applicant's Unit on the Premises
- (3) Letter from Owner/Landlord authorizing the filing of the Application
- (4) Letter from Owner/Landlord confirming no change to footprint of building or parking layout on the Premises
- (5) A check made out to "Town of Needham" in the amount of \$500.00 for the filing fee in connection with the Application
- (6) Seven (7) copies of the Application with the accompanying documents listed in items (1) through (4) above.

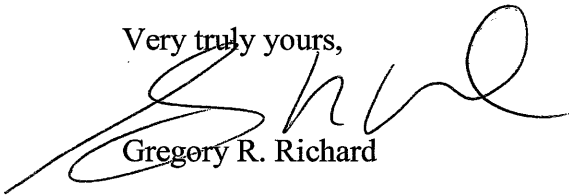
An electronic copy of the application and all submitted materials is being sent by e-mail to Daphne Collins (dcollins@needhamma.gov) and to your office (townclerk@needhamma.gov).

Clerk's Office
Town of Needham
February 18, 2022
Page 2

This submission is being made for this matter to be heard at the upcoming Zoning Board of Appeals meeting schedule for March 17, 2022.

Thank you in advance for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Gregory R. Richard', written over the typed name.

Gregory R. Richard

Enclosures



ZBA Application For Hearing

Applicants must consult with the Building Inspector prior to filing this Application. *Failure to do so will delay the scheduling of the hearing.*

Applicant Information

Applicant Name	Harvey Family Dental PLLC			Date:	2/17/2022
Applicant Address	29 Sunshine Dr., Marlborough, MA 01752				
Phone	603-496-1147	email	jmclaug4@u.rochester.edu		
Applicant is ☐ Owner; ☒ Tenant; ☐ Purchaser; ☐ Other_____					
If not the owner, a letter from the owner certifying authorization to apply must be included					
Representative Name	Gregory R. Richard				
Address	50 Salem Street, Building B, Suite 205, Lynnfield, MA 01940				
Phone	781-361-7292	email	greg@richardpclaw.com		
Representative is ☒ Attorney; ☐ Contractor; ☐ Architect; ☐ Other_____					
Contact ☒ Me ☐ Representative in connection with this application.					

Subject Property Information

Property Address	1183 Highland Avenue		
Map/Parcel Number	Type text here 199/266.0-0057-0000.0	Zone of Property	Business District
Is property within 100 feet of wetlands, 200 feet of stream or in flood Plain? ☐ Yes ☒ No			
Is property ☐ Residential or ☒ Commercial			
If residential renovation, will renovation constitute "new construction"? ☐ Yes ☐ No			
If commercial, does the number of parking spaces meet the By-Law requirement? ☐ Yes ☒ No			
Do the spaces meet design requirements? ☐ Yes ☒ No			
Application Type (<i>select one</i>): ☒ Special Permit ☐ Variance ☐ Comprehensive Permit ☐ Amendment ☐ Appeal Building Inspector Decision			



ZBA Application For Hearing

Existing Conditions:

The premises consist of a 26,660 square foot lot with a one-story commercial building located thereon with four side-by-side units. There are a total of thirty (30) parking spaces on the premises, which includes two (2) handicapped parking spaces. The subject unit consists of approximately 2,500 square feet and is a portion of the building located on the premises.

Statement of Relief Sought:

The Applicant is seeking a special permit for a waiver of (a) the minimum parking requirements set forth in Section 5.1.2 of the Town's Zoning By-Laws for the use of the subject unit as a dental office, and (b) strict adherence to the parking design requirements set forth in Section 5.1.3 of the Town's Zoning By-Laws.

Applicable Section(s) of the Zoning By-Law:

Sections 5.1.1.5, 5.1.2, 5.1.3, and 7.5.2

If application under Zoning Section 1.4 above, list non-conformities:

	Existing Conditions	Proposed Conditions
Use		
# Dwelling Units		
Lot Area (square feet)		
Front Setback (feet)		
Rear Setback (feet)		
Left Setback (feet)		
Right Setback (feet)		
Frontage (feet)		
Lot Coverage (%)		
FAR (Floor area divided by the lot area)		
<i>Numbers must match those on the certified plot plan and supporting materials</i>		



ZBA Application For Hearing

Date Structure Constructed including additions: 1963; 2006	Date Lot was created: 1958
--	--------------------------------------

Submission Materials	Provided
Certified Signed Plot Plan of Existing and Proposed Conditions <i>(Required)</i>	X
Application Fee, check made payable to the Town of Needham Check holders name, address, and phone number to appear on check and in the Memo line state: "ZBA Fee – Address of Subject Property" <i>(Required)</i>	X
If applicant is tenant, letter of authorization from owner <i>(Required)</i>	X
Electronic submission of the complete application with attachments <i>(Required)</i>	X
Elevations of Proposed Conditions <i>(when necessary)</i>	N/A
Floor Plans of Proposed Conditions <i>(when necessary)</i>	X

Feel free to attach any additional information relative to the application.
Additional information may be requested by the Board at any time during the
application or hearing process.



I hereby request a hearing before the Needham Zoning Board of Appeals. I have
reviewed the Board Rules and instructions.

I certify that I have consulted with the Building Inspector 2/10/2022
date of consult

Date: 2/17/2022 Applicant Signature Jennifer Harvey
Jennifer L. Harvey, D.M.D., as Manager
of Harvey Family Dental PLLC

*An application must be submitted to the Town Clerk's Office at
townclerk@needhamma.gov and the ZBA Office at dcollins@needhamma.gov*



		HANDICAP RAMP
•		BOLLARD
		UTILITY POLE
		WATER SHUT OFF
		CATCH BASIN
		MANHOLE
⑤		SEWER MANHOLE
④		DRAIN MANHOLE



D - . . . - DUMPSTER

CONC. . . . CONCRETE

VGC - . . . - VERTICAL GRANITE CURB

—X—X—X—X—X— CHAIN LINK FENCE LINE



TIMBER GUARD RAIL

ZONING INFORMATION: BUSINESS

MINIMUM LOT AREA	10,000 SF.
MINIMUM LOT FRONTAGE.....	80 FEET
MINIMUM FRONT SETBACK.....	20 FEET
MINIMUM SIDE YARD.....	NONE
MINIMUM REAR YARD.....	50 FEET*
MINIMUM DRIVEWAY WIDTH.....	18 FEET (2 WAY) 25 FEET (2 WAY)
MAXIMUM BUILDING COVERAGE.....	**
MAXIMUM BUILDING HEIGHT.....	40 FEET
MAXIMUM BUILDING HEIGHT.....	3 STORIES
*REAR YARD SETBACK IS 50 FEET DUE TO BEING ADJACENT TO A RESIDENTIAL DISTRICT IN THE REAR.	
**VARIES FROM 25% TO 50% PER USE OF THE STRUCTURES	

PARKING SUMMARY

EXISTING STRIPED PARKING.....	28 SPACES
HANDICAP PARKING SPACES.....	2 SPACES
TOTAL PARKING SPACES.....	30 SPACES



Field Resources, Inc.
LAND SURVEYORS

FEBRUARY 16, 2012

SCALE 1"=20'

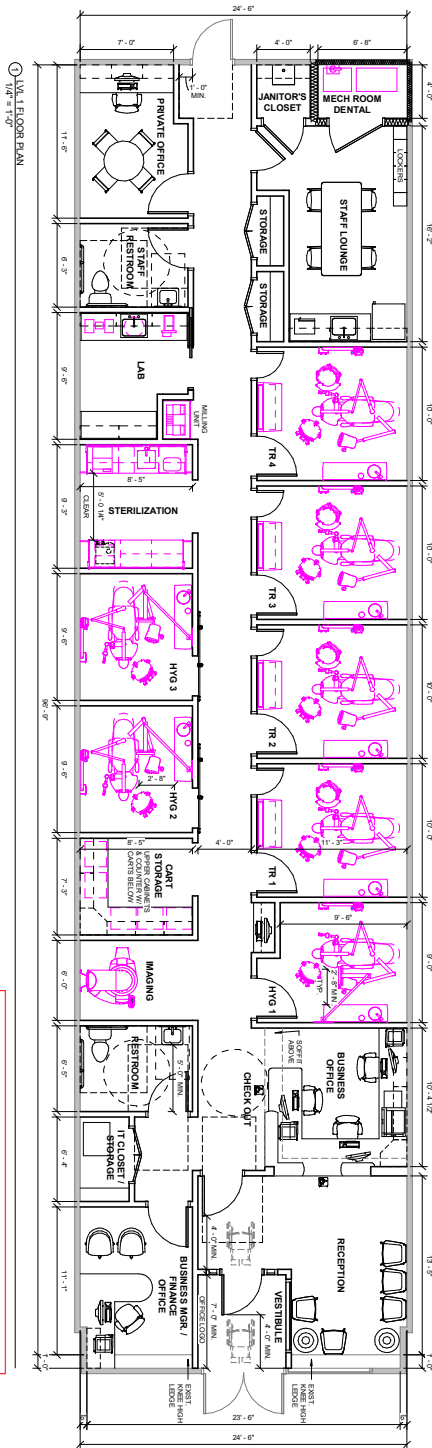
P.O. BOX 324

281 CHESTNUT ST.

AUBURN, MA

NEEDHAM, MA.

fieldresources@hotmail.com



NOTE: DRAWING TO SCALE OR CAD FILE WAS NOT PROVIDED. LOCATIONS OF ALL EXISTING WALLS, COLUMNS, LOAD BEARING WALLS, DOORS, VENTILATION, ETC. MUST BE VERIFIED BEFORE PROCEEDING WITH CONSTRUCTION.

PLAN LEGEND	
	EXISTING FURNITURE & EQUIPMENT
	PROPOSED FURNITURE & EQUIPMENT
	EXISTING RELOCATED
	PROPOSED FURNITURE & EQUIPMENT
	FUTURE
	EQUIPMENT NUMBER TAG (NUMBERS ARE RANDOM)

WALL LEGEND	
	EXISTING WALL
	DEMOL WALL
	NEW WALL
	SOUD PROOFING IN WALL
	LEAD LINED WALL



PATTERSON
DENTAL

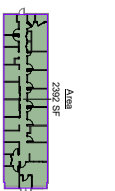
1031 MENDOTA HEIGHTS ROAD
MENDOTA HEIGHTS, MN

NOTES:
1. THE DRAWINGS AND SPECIFICATIONS ARE THE PROPERTY OF PATTERSON DENTAL, INC. AND ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF PATTERSON DENTAL, INC.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL, STATE, AND FEDERAL AUTHORITIES.

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Dr. Jennifer Harvey
LOCATION:
1183 Highland Ave.
Needham, MA

REVISIONS	
REV	DESCRIPTION
1	Revision 1



2022 SP

SHEET NO.

DA111

February 17, 2022

Town of Needham
Board of Appeals
1471 Highland Avenue
Needham, MA 02492

RE: 1183-1189 Highland Avenue

To Whom It May Concern:

As the owner and manager for the property located at 1183-1189 Highland Avenue I am writing on behalf of Harvey Family Dental PLLC in order to authorize them to file a ZBA Application for the Special Permit for Waiver of Minimum Parking Requirements for the premises located at 1183 Highland Ave., Needham, MA.

Sincerely,



Gary B. Simon

February 17, 2022

Town of Needham
Board of Appeals
1471 Highland Avenue
Needham, MA 02492

RE: 1183-1189 Highland Avenue Site Plan

To Whom It May Concern:

As the owner and manager for the property located at 1183-1189 Highland Avenue, I am writing to confirm there has been no change to the footprint of the building or the parking layout on the premises since the preparation of the site plan dated February 16, 2012 prepared for the ZBA.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary B. Simon", with a long horizontal flourish extending to the right.

Gary B. Simon



50 Salem Street
Building B, Suite 205
Lynnfield, MA 01940

Gregory R. Richard, Esq.
(Admitted in MA & NH)

Telephone: (781) 361-7292
Facsimile: (781) 361-7293
Email: greg@richardpclaw.com

February 24, 2022

Zoning Board of Appeals
Town of Needham
1471 Highland Avenue
Needham, MA 02492

Re: ZBA Application – Special Permit for Waivers for Minimum Parking Requirements and Parking Design Requirements

Applicant: Harvey Family Dental PLLC

Premises/Subject Unit: 1183 Highland Avenue

Dear Board Members:

This office represents the Applicant, Harvey Family Dental PLLC, in connection with the above matter. With respect to the above mentioned ZBA Application, please consider the enclosed memorandum in support of the Applicant's requested relief therein.

Thank you in advance for your consideration of the Applicant's requested relief in the Application. If you require any further information or documentation, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'GR Richard', is written over a horizontal line.

Gregory R. Richard

Enclosure

cc: Harvey Family Dental PLLC (via e-mail)

**ZBA Application – Special Permit for Waivers for Minimum Parking Requirements and
Parking Design Requirements**

Applicant - Harvey Family Dental PLLC

Premises/Subject Unit - 1183 Highland Avenue

MEMORANDUM

With respect to the above-referenced matter, the following is submitted in support of the Applicant's ZBA Application requesting a special permit for waivers for minimum parking requirements and strict adherence to parking design requirements as set forth in Sections 5.1.2 and 5.1.3 of the Town's Zoning By-Laws.

Proposed Use of Subject Unit

As set forth in the Application, the Applicant intends to use and operate the subject unit as a dental office, which, pursuant to Section 3.2.2 of the Town's Zoning By-Laws, is a permitted use as of right in the Business District where the premises are located. As such, there is no need for further relief for the Applicant's proposed use of the subject unit.

Minimum Off-Street Parking

Pursuant to Section 5.1.2 of the Town's Zoning By-Laws, a dental office requires one (1) off-street parking space per 200 square feet of floor area. The subject unit consists of 2,500 square feet, requiring twelve and one-half (12.5) off-street parking spaces.

The most recent tenant of the subject unit (Lotus Mind & Body Spa) operated the space as a day spa, which required eight and one-third (8.33) off-street parking spaces according to Section 5.1.2 of the Town's Zoning By-Laws.

In addition to the subject unit, there are three (3) other commercial units on the premises (Hungry Coyote, a Mexican taqueria and bar, located at 1185 Highland Avenue, which contains approximately fifty-seven (57) seats and offers take-out service; a Subway sandwich shop, located at 1187 Highland Avenue, which contains approximately twelve (12) seats and offers take-out service; and a Verizon Wireless retail store, located at 1189 Highland Avenue, which consists of 2,000 square feet of retail space).

The minimum parking requirements for the other three (3) commercial units on the premises as required under Section 5.1.2 of the Town's Zoning By-Laws are as follows:

<u>Tenant</u>	<u>Required Minimum Off-Street Parking</u>
• Hungry Coyote:	Twenty-nine (29) off-street parking spaces (one (1) space for every three (3) seats plus ten (10) spaces for take-out station)
• Subway:	Fourteen (14) off-street parking spaces (one (1) space for every three (3) seats plus ten (10) spaces for take-out station)
• Verizon:	Six and two-thirds (6.67) off-street parking spaces (one (1) space

per 300 square feet of floor area)

Based on the above, the total minimum off-street parking as required under Section 5.1.2 of the Town's Zoning By-Laws for the premises is sixty-two and one-sixth (62.167) spaces. The existing parking layout on the premises contains a total of thirty (30) parking spaces, two (2) of which are handicapped parking spaces, which is less than the required minimum off-street parking per Section 5.1.2.

Hours of Operation

The expected hours of operation for the subject unit will be 8AM to 5PM, Monday through Friday, for patients and it is expected that staff will arrive approximately thirty (30) minutes prior to opening for patients and after close for office cleaning (i.e., staff arriving at 7:30AM before patients and leaving for the day at 5:30PM after all patient procedures have concluded).

The hours of operation requirements for the other three (3) commercial units on the premises are as follows:

<u>Tenant</u>	<u>Hours of Operation</u>
• Hungry Coyote:	Sunday: 10AM to 8PM; Monday through Thursday: 10AM to 10PM; and Friday and Saturday: 10AM to Midnight (12AM)
• Subway:	Saturday and Sunday: 10AM to 5PM; Monday through Friday: 10AM to 8PM
• Verizon:	Sunday: 11AM to 6PM; Monday through Saturday: 10AM to 6PM

Staff and Patient Capacity for Subject Unit

Upon opening for business, the Applicant anticipates that its dental practice will use three (3) fully-equipped operatories (with the ability to expand to seven (7) fully-equipped operatories in the future as the practice grows). Further, upon opening for business, the Applicant anticipates to have a staff of three (3) people and the initial maximum capacity for the Applicant's dental practice in the subject unit will be six (6) people (i.e., including all staff and patients).

At full operational capacity (which the Applicant anticipates may come to fruition within two (2) to three (3) years after opening for business), the Applicant anticipates to have a maximum staff of eleven (11) people and the maximum capacity for the Applicant's dental practice at any point in time in the subject unit will be twenty-two (22) people (i.e., including all projected staff and patients).

All patients will have scheduled appointments.

Parking Design

The parking lot on the premises as presently constituted has been in existence for many years and is not in strict compliance with the Parking Plan and Design Requirements set forth in Section 5.1.3 of the Town's Zoning By-Laws. For example, the size of the parking spaces, the minimum width of the maneuvering aisle, the parking setbacks, and landscaped areas do not meet the current requirements under Section 5.1.3.

The Applicant will occupy one (1) of the four (4) existing commercial units on the premises and will not be making any changes or improvements to the footprint or exterior of the structure, aside from some possible signage for the subject unit.

Additional Comments

The prior tenant of the subject unit (Lotus Mind & Body Spa) was granted a special permit for use as a spa by this Board in 2006, which allowed for a maximum capacity of twenty-six (26) people within the subject unit at any time. The anticipated maximum capacity for the Applicant's proposed use as a dental practice is less than the prior tenant's use, which would create less of an impact on parking than the most recent use of the subject unit.

Additionally, the abutting tenant (Hungry Coyote, 1185 Highland Avenue) was granted a special permit for use and to waive strict adherence to the parking requirement by this Board in 2019. As set forth above, the total required minimum off-street parking spaces for the Applicant's use of the subject unit will be less than half (1/2) of Hungry Coyote's required minimum off-street parking.

Requested Relief

Based on the foregoing and pursuant to the Board's authority granted under Sections 5.1.1.5 and 7.5.2 of the Town's Zoning By-Laws, the Applicant is requesting from this Board a special permit for waivers for minimum parking requirements and strict adherence to parking design requirements as set forth in Sections 5.1.2 and 5.1.3 of the Town's Zoning By-Laws.

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 Committee 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



PLANNING DIVISION
Planning & Community Development

MEMORANDUM

TO: David Roche - Building Department

FROM: Planning Department 

DATE: February 18, 2022

SUBJECT: **88 and 66 Chestnut, 89 School, 0 Chestnut
Major Project Site Plan Special Permit Amendment 2018-03
Police & Fire Headquarters (43 Lincoln option)
Phase 1 and Phase 2 Temporary Occupancy**

The Planning Board has received a written request from Ken Sargent, Senior Project Manager, Building Design and Construction Department/PPBC, dated February 14, 2022 to:

1. File a statement with the Building Inspector acknowledging receipt of an as-built plan supplied by the engineer of record certifying that the Project was built according to the approved documents has been submitted to the Board and Department of Public Works. The as-built plan shall show the building, all finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements in their true relationship to the lot lines for each Phase of the project on-site and off-site. In addition, the as-built plan for each Phase of the project shall show the final location, size, depth, and material of all public and private utilities on the site and their points of connection to the individual utility, and all utilities that have been abandoned for each Phase of the project. In addition to the engineer of record, said plan shall be certified by a Massachusetts Registered Land Surveyor. (See Section 3.32(a) of the Decision).
2. File a statement with the Building Inspector acknowledging receipt of a statement by the registered professional engineer of record certifying that the finished grades and final construction details of the driveways, parking areas, drainage systems, utility installations, and sidewalk and curbing improvements on-site 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 for each Phase of the project. (See Section 3.32(b) of the Decision).
3. File a statement with the Building Inspector acknowledging receipt of an as-built Landscaping Plan showing the final location, number and type of plant material, final landscape features, parking areas, and lighting installations for each Phase of the project. 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. (See Section 3.32(c) of the Decision).

4. File a statement with the Building Inspector acknowledging receipt of a Certificate of Compliance signed by a registered architect upon completion of construction of the project. (See Section 3.32(d) of the Decision).

The Planning Board has received a letter directed to Lee Newman, Director of Planning and Community Development, from Ken Sargent, Senior Project Manager, Building Design and Construction Department/PPBC, dated February 14, 2022. The letter requests the issuance of a Temporary Certificate of Occupancy for the Phase 2 portion of the above referenced project subject to the Planning Board's Decision dated July 17, 2018 for SPMP No. 2018-03. The request additionally seeks an extension of the Temporary Certificate of Occupancy for the Phase 1 portion of the above referenced project subject to the Planning Board's Decision dated July 17, 2018 for SPMP No. 2018-03. The overall construction of the Phase 2 portion of the project consists of the following areas: Police Headquarters comprising Police Administration, a training room, detention area, sally port, firing range, roll call, records, locker rooms, storage and mechanical spaces. The overall Phase I portion of the project consists of the following areas: the new Needham Fire Station #1, Fire Dispatch area, Fire Apparatus Bay, Fire Administration and Fire Personnel Offices, Fire Personnel Bunk Rooms, Bathrooms/Shower, Kitchen, Day Room, Meeting-Conference rooms, Boiler room, Generator room, Mechanical and Electrical rooms, Storage areas, Fitness room, Public Lobby area, Elevator, and Police Dispatch area.

The request for a Temporary Occupancy Permit on Phase 2 and for the extension of Phase 1 Temporary Occupancy is to allow for Phase 2 landscaping to be completed in the spring of 2022. Further, reference is made to the above noted letter directed from Ken Sargent, Senior Project Manager, Building Design and Construction Department/PPBC, dated February 14, 2022. The letter states that the Permanent Public Building Committee has retained contract monies of \$2,294,598.30 in project retainage under the contract and approximately \$226,000 for sitework/landscape items which haven 't been paid to date under the contract schedule of values to ensure the completion of the open Phase 2 items identified above.

Accordingly, the Planning Board approved the issuance of a Temporary Certificate of Occupancy for the Phase 2 portion of the Needham Police and Fire Headquarters, and the extension of the Temporary Certificate of Occupancy for Phase 1, having received a letter from Thomas Ryder, Acting Town Engineer, dated February 18, 2022, recommending said approval, and authorized the issuance of a Temporary Certificate of Occupancy, as conditioned and described below:

The Planning Board has conditioned the issuance of the Temporary Certificate of Occupancy to the satisfactory completion of the remaining Phase 2 landscaping work at the Needham Police and Fire Headquarters building by June 30, 2022. The remaining work items to be completed are detailed in the five submittals enclosed herewith and described as item numbers 1 and 2 below and those items further detailed above in this memo. In the event that the remaining work at the Needham Police and Fire Headquarters building is not completed within the stated time frame and an extension is not granted by the Planning Board, then the Temporary Certificate of Occupancy granted at the subject site shall automatically expire on June 30, 2022.

Lastly, I have attached a copy of the following project memos, emails, as-built plans and affidavits for your records:

1. Letter directed to Lee Newman, Director, Planning and Community Development, from Ken Sargent, Senior Project Manager, Building Design and Construction Department/PPBC, dated February 14, 2022.
2. Phase 2: Certification Letter from David McKinley, Landscape Architect, Kaestle Boos Associates, Inc. and Alicja A. Zukowski, Civil, Samiotes Consultants, Inc., to Lee Newman, Director, Planning and Community Development, dated February 11, 2022.

3. Phase 2: Final Construction Control Document, Alicja A. Zukowski, Civil, Samiotes Consultants, Inc., dated February 14, 2022, on Building permit No. B120190392.
4. Phase 2: Final Construction Control Document, David McKinley, Landscape Architect, Kaestle Boos Associates, Inc., dated February 14, 2022, on Building permit No. B120190392.
5. Phase 2: Certification Letter from Todd Costa, Architect, Kaestle Boos Associates, Inc. to Lee Newman, Director, Planning and Community Development, dated February 14, 2022.
6. Phase 2: Final Construction Control Document, Todd Costa, Architectural, Kaestle Boos Associates, Inc., dated February 14, 2022, on Building permit No. B120190392.
7. Plan entitled “As-built Survey, Partial As-built Survey – Phase 2, Public Safety Headquarters, Needham, MA”, prepared by Waternan Associates, 2 Wisteria Way, Clinton, MA, dated February 9, 2022.
8. Letter directed to the Needham Planning Board from Thomas Ryder, Acting Town Engineer, dated February 18, 2022.

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

Enclosures

cc: Carys Lustig, Director, Department of Public Works
Tom Ryder, Acting Town Engineer
Ken Sargent, Building Design & Construction Dept.
Hank Haff, Building Design & Construction Dept.

WELLESLEY PLANNING BOARD

**NOTICE OF ZONING PUBLIC HEARING
ANNUAL TOWN MEETING**

**MONDAY, MARCH 7, 2022, 6:30 PM
REMOTE MEETING**

<https://www.wellesleymedia.org/live-streaming.html>

The online meeting will also be streaming live and will be telecast live on Comcast channel 9 and Verizon channel 39. The meeting will also be recorded and available for later viewing on Wellesley Media.

If you would like to participate on this topic, an agenda will be posted prior to the meeting with the remote information.

In accordance with M.G.L., Chapter 40A, Section 5, and Section 26 of the Zoning Bylaws of the Town of Wellesley, Massachusetts, notice is hereby provided that the Planning Board will hold a public hearing to begin at 6:30 p.m. on Monday, March 7, 2022, on the following proposed amendments to the Zoning Bylaw and Zoning Map proposed to be considered at the 2022 Annual Town Meeting:

ARTICLE 33: FLOOD PLAIN OR WATERSHED PROTECTION DISTRICTS

Amend Article 1B. DEFINITIONS and Article 14B. FLOOD PLAIN OR WATERSHED PROTECTION DISTRICTS to conform with FEMA Map updates and adopt, as appropriate, provisions of the Massachusetts 2020 Model Floodplain Bylaws.

ARTICLE 34: DEFINITION OF CHILD CARE FACILITY

Amend the definitions of Child Care Facility, Child Care Use, and Home Occupation in Sections 1B DEFINITIONS Section 14J SMART GROWTH OVERLAY DISTRICT and Section 14.J.1 WELLESLEY PARK SMART GROWTH OVERLAY DISTRICT to reference the terms used in G.L. c.15D Section 1A.

ARTICLE 35: TOWN HOUSE

1. Amend Section 1B DEFINITIONS, by amending or inserting the following definitions as follows:

Duplex – A building containing two Dwelling Units joined side by side [or front to back] sharing a common wall for all or substantially all of its height and depth; that is in which no part of one Dwelling Unit is over any other part of the other Dwelling Unit. A Duplex shall be considered as one building occupying one lot for the purposes of determining yard requirements.

Town House – A One-Unit Dwelling constructed in a group of three or more attached Dwelling Units in which each Dwelling Unit extends from foundation to roof and with a yard or public way on not less than two sides.

Townhouse Structure – a row of at least three One-Unit Dwellings whose sidewalls are separated from each other Dwelling Units by a fire separation wall or walls, and where each Dwelling Unit has its own at-grade access.

Two Unit Dwelling – A building, including a Duplex, containing two, and no more than two, Dwelling Units.

2. Amend Section 4 GENERAL RESIDENCE DISTRICTS to incorporate the revised definitions.

ARTICLE 36: GENERAL RESIDENCE DISTRICTS

1. Amend Section 4. GENERAL RESIDENCE DISTRICTS to provide for additional uses for any land with frontage on Washington Street or Worcester Street east of Cliff Road and west of Grantland Road Extension.

ARTICLE 37: ZONING MAP CHANGES

Amend the Zoning Map of the Town of Wellesley by rezoning 219 Washington Street (Parcel 63-1), and 229 Washington Street (Parcel 63-1-A) from the Single Residence District to the General Residence District.

ARTICLE 38: SUSTAINABILITY

1. Amend Section 1. GENERAL PROVISIONS by amending Section 1.C Purpose to add a new Section 1.C.12 as follows:
 12. To reduce emissions of greenhouse gases and to encourage the use of sustainable building and land use practices.
2. Amend Section 16A. PROJECT APPROVAL to include review of Greenhouse Gas Emissions by:
 - a. Amending Section 16A.C.3.a and Section 16A.C.3.b to read as follows:
 - a. The applicant shall submit to the Planning Board a Municipal Systems Impact Analysis (MSIA), prepared by professional engineers registered in the Commonwealth of Massachusetts, and identifying the impact of the Construction Project on water, sewer, storm drainage, electric, traffic, intersections, sidewalks and footways, building occupant life safety, refuse disposal and recycling, and greenhouse gas emissions. The water, sewer, and storm drainage portions of the MSIA shall be prepared by engineers having expertise in civil engineering; the electric portion shall be prepared by engineers having expertise in electrical engineering; the traffic and pedestrian safety and bicycle safety portions shall be prepared by engineers having expertise in traffic and transportation engineering; and the greenhouse gas emissions portion shall be prepared by engineers having expertise in energy performance and efficiency.
 - b. The intent of the analysis is to determine the impact on the Town's existing capital infrastructure in order to assess costs of providing or upgrading Town public facilities which will benefit a PSI and compatibility with the Town's greenhouse gas emissions reduction goals.
 - b. Amending Section 16A.C.3.c to add a new subsection vi as follows:
 - vi. Greenhouse Gas Emissions

identification of proposed energy consumption and emissions including analysis of measures taken to meet the Town's greenhouse gas emissions reduction goals.

3. Amend Section 22. DESIGN REVIEW to expand the Design Review Standards to include review of sustainable design by adding a new Section 22.C.6 as follows:

6. Sustainable Design- Proposed development shall promote meeting the Town's greenhouse gas emissions reduction goals.

4. Amend Section 1B DEFINITIONS by inserting the following definition:

Heat Pump – Means a Cold Climate Air-Source Heat Pump which is listed by the Massachusetts Clean Energy Center at https://goclean.masscec.com/wp-content/uploads/2021/01/MassCEC_ASHP_GUIDE.pdf or, if such listing is discontinued, a successor or comparable listing as confirmed by the Planning Department.

5. Amend Section 19 YARD REGULATIONS by amending the fourth sentence of the Section 19.B to read in its entirety as follows:

Heating, ventilation, air conditioning, swimming pool, electric generating, or other noise emitting equipment shall not be located in required setback areas except for Heat Pumps located in Side Yards or Rear Yards which are attached to and do not extend more than two feet from the wall of the building (but may not be attached to any part of bay windows) or are ground mounted and do not extend more than four feet from the foundation of the building, including any pad on which the Heat Pump is mounted. Plans and installation of sound reduction and/or visual screening may be required if, in the opinion of the Inspector of Buildings abutters may be affected.

PLANNING ARTICLE 39: ACCESSORY DWELLING UNITS

Add a new Section 16H. ACCESSORY DWELLING UNITS to allow the construction and operation of Accessory Dwelling Units in One-Unit Dwellings.

PLANNING ARTICLE 40: COMMERCIAL GUN SHOPS

1. Amend Section 1B DEFINITIONS by inserting the following definition:

Commercial Gun Shop – Any commercial establishment engaging in whole or in part in the business of a Gunsmith, or the manufacture, sale, or lease to the public of any Weapon, Machine Gun, Ammunition, Bump Stock, Large Capacity Feeding Device, Stun Gun, or Trigger Crank, as such terms are defined in G.L.c.140, § 121.

2. Amend Section 11. BUSINESS DISTRICTS by adding a new Section 11.A.13.I as follows:

- I. Commercial Gun Shop

3. Amend Section 13. INDUSTRIAL DISTRICTS by adding a new Section 13.A.11.d as follows:

- d. Commercial Gun Shop

4. Amend Section 25. SPECIAL PERMIT GRANTING AUTHORITY by inserting a new Section 25.B.7 to regulate the siting, design, placement, security, safety, monitoring, and modifications of Commercial Gun Shops within the Town to ensure that such uses are operated in a manner consistent with the overall health, welfare and safety of the Town and to minimize the adverse impacts of Commercial Gun Shops on adjacent properties, residential neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said Commercial Gun Shops.

ARTICLE 41: OUTDOOR LIGHTING

1. Amend Section 16G.D to read in its entirety as follows:

D. Applicability

The provisions of this Section shall apply to the following project types:

1. Major Construction Projects and Minor Construction Projects; and
2. Externally Illuminated Signs requiring Design Review and/or a Special Permit, as required and defined by Section 22A.

Where the provisions of this Section 16G are more specific and/or more restrictive with respect to lighting associated with an applicable project type for which other standards may exist within the Zoning Bylaw, the regulations contained in this Section shall take precedence.

With respect to any building or structure which is constructed or renovated as part of a Major Construction Project or a Minor Construction Project, all exterior luminaires of such building or structure shall be brought into compliance with this Section 16G.

The provisions of this Section shall not apply to:

- (a) One-Unit or Two-Unit Dwellings or to structures or uses accessory to such dwellings.
- (b) the ordinary maintenance, repair, and/or replacement of luminaires not approved as part of and/or associated with the installation of Externally Illuminated Signs; and
- (c) the installation of new luminaires on properties not subject to one or more of the aforementioned project types following the effective date of this Section.

ARTICLE 42: SIGNS

Amend Section 22A. SIGNS as follows:

In Table 22A.1 insert the words “, whichever is less.” at the end of the text in the cell in such table for Wall Signs, Maximum Area, Commercial Districts Fronting Streets other than Worcester Street and Commercial Districts Fronting Worcester Street, so that the text in such cell shall read in its entirety as follows:

Additional signs allowed per additional public entrances and additional signs allowed for building occupied by more than 1 Business Establishment, shall not exceed 25 sq. ft. or 10% of the area of the wall to which attached, whichever is less.

ARTICLE 43: ZONING BYLAW REORGANIZATION

Amend the Zoning Bylaw to reorder and renumber existing sections to correct all section references therein to conform to the new section numbering.

The purpose of the hearing is to allow interested persons the opportunity to express their views and opinions on the proposed amendments; any person interested or wishing to be heard should appear at the time and place designated.

A copy of the text of the proposed amendments can be found online at <http://wellesleyma.gov>. Interested persons are encouraged to call the Planning Department/Planning Board Office (781-431-1019 ext. 2232, 2234) for more information.

Donald S. McCauley
Planning Director
(2/17/22 & 2/24/22)